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GOVERNMENT REFORM AND SAVINGS ACT OF 1993

NOVEMBER 15, 1993.—Ordered to be printed

Mr. GONZALEZ, from the Committee on Banking, Finance and Urban Affairs, submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 3400 which on October 28, 1993, was referred jointly to the following committees for a period ending not later than November 15, 1993: Agriculture, Armed Services, Banking, Finance and Urban Affairs, Education and Labor, Energy and Commerce, Foreign Affairs, Government Operations, House Administration, the Judiciary, Merchant Marine and Fisheries, Natural Resources, Permanent Select Committee on Intelligence, Post Office and Civil Service, Public Works and Transportation, Science, Space, and Technology, Veterans' Affairs, and Ways and Means]

[Including cost estimate of the Congressional Budget Office]

The Committee on Banking, Finance and Urban Affairs, to whom was referred the bill (H.R. 3400) to provide a more effective, efficient, and responsive government, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment (stated in terms of the page and line numbers of the introduced bill) is as follows:

Beginning on page 46, strike line 1 and all that follows through page 101, line 21 and insert the following:

TITLE VI—DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SEC. 6001. MULTIFAMILY PROPERTY DISPOSITION.

(a) FINDINGS.—The Congress finds that—

(1) the portfolio of multifamily housing project mortgages insured by the FHA is severely troubled and at risk of default, requiring the Secretary to increase loss reserves from \$5,500,000,000 in 1991 to \$11,900,000,000 in 1992 to cover estimated future losses;

(2) the inventory of multifamily housing projects owned by the Secretary has more than tripled since 1989, and, by the end of 1993, may exceed 75,000 units;

(3) the cost to the Federal Government of owning and maintaining multifamily housing projects escalated to approximately \$250,000,000 in fiscal year 1992;

(4) the inventory of multifamily housing projects subject to mortgages held by the Secretary has increased dramatically, to more than 2,400 mortgages, and approximately half of these mortgages, with over 230,000 units, are delinquent;

(5) the inventory of insured and formerly insured multifamily housing projects is rapidly deteriorating, endangering tenants and neighborhoods;

(6) over 5 million families today have a critical need for housing that is affordable and habitable; and

(7) the current statutory framework governing the disposition of multifamily housing projects effectively impedes the Government's ability to dispose of properties, protect tenants, and ensure that projects are maintained over time.

(b) **MANAGEMENT AND DISPOSITION OF MULTIFAMILY HOUSING PROJECTS.**—Section 203 of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1701z-11) is amended to read as follows:

"SEC. 203. MANAGEMENT AND DISPOSITION OF MULTIFAMILY HOUSING PROJECTS.

"(a) GOALS.—The Secretary of Housing and Urban Development shall manage or dispose of multifamily housing projects that are owned by the Secretary or that are subject to a mortgage held by the Secretary in a manner that—

“(1) is consistent with the National Housing Act and this section;

“(2) will protect the financial interests of the Federal Government; and

“(3) will, in the least costly fashion among reasonable available alternatives, further the goals of—

“(A) preserving housing so that it can remain available to and affordable by low-income persons;

“(B) preserving and revitalizing residential neighborhoods;

“(C) maintaining existing housing stock in a decent, safe, and sanitary condition;

“(D) minimizing the involuntary displacement of tenants;

"(E) maintaining housing for the purpose of providing rental housing, cooperative housing, and homeownership opportunities for low-income persons; and

"(F) minimizing the need to demolish multifamily housing projects.

The Secretary, in determining the manner in which a project is to be managed or disposed of, may balance competing goals relating to individual projects in a manner that will further the purposes of this section.

"(b) DEFINITIONS.—For purposes of this section:

"(1) MULTIFAMILY HOUSING PROJECT.—The term 'multifamily housing project' means any multifamily rental housing project which is, or prior to acquisition by the Secretary was, assisted or insured under the National Housing Act, or was subject to a loan under section 202 of the Housing Act of 1959.

"(2) SUBSIDIZED PROJECT.—The term 'subsidized project' means a multifamily housing project that, immediately prior to the assignment of the mortgage on such project to, or the acquisition of such mortgage by, the Secretary, was receiving any of the following types of assistance:

"(A) Below market interest rate mortgage insurance under the proviso of section 221(d)(5) of the National Housing Act.

"(B) Interest reduction payments made in connection with mortgages insured under section 236 of the National Housing Act.

"(C) Direct loans made under section 202 of the Housing Act of 1959.

"(D) Assistance in the form of—

"(i) rent supplement payments under section 101 of the Housing and Urban Development Act of 1965,

"(ii) additional assistance payments under section 236(f)(2) of the National Housing Act,

"(iii) housing assistance payments made under section 23 of the United States Housing Act of 1937 (as in effect before January 1, 1975), or

"(iv) housing assistance payments made under section 8 of the United States Housing Act of 1937 (excluding payments made for tenant-based assistance under section 8),

if (except for purposes of section 183(c) of the Housing and Community Development Act of 1987) such assistance payments are made to more than 50 percent of the units in the project.

"(3) FORMERLY SUBSIDIZED PROJECT.—The term 'formerly subsidized project' means a multifamily housing project owned by the Secretary that was a subsidized project immediately prior to its acquisition by the Secretary.

"(4) **UNSUBSIDIZED PROJECT.**—The term 'unsubsidized project' means a multifamily housing project owned by the Secretary that is not a subsidized project or a formerly subsidized project.

"(5) **AFFORDABLE.**—A unit shall be considered affordable if—

"(A) for units occupied—

"(i) by very low-income families, the rent does not exceed 30 percent of 50 percent of the area median income, as determined by the Secretary, with adjustments for smaller and larger families, except that the Secretary may establish the rent based on an amount higher or lower than 50 percent of the median for the area on the basis of the Secretary's findings that such variation is necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes; and

"(ii) by low-income families other than very low-income families, the rent does not exceed 30 percent of 80 percent of the area median income, as determined by the Secretary, except that the Secretary may establish the rent based on an amount higher or lower than 80 percent of the median for the area on the basis of the Secretary's findings that such variation is necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes; or

"(B) the unit, or the family residing in the unit, is receiving assistance under section 8 of the United States Housing Act of 1937.

"(6) **LOW-INCOME FAMILIES AND VERY LOW-INCOME FAMILIES.**—The terms 'low-income families' and 'very low-income families' shall have the meanings given the terms in section 3(b) of the United States Housing Act of 1937.

"(7) **PREEXISTING TENANT.**—The term 'preexisting tenant' means, with respect to a multifamily housing project, a family that—

"(A) resides in a unit in the project; and

"(B) immediately before foreclosure or acquisition of the project by the Secretary, was residing in a unit in the project.

"(8) **MARKET AREA.**—The term 'market area' means a market area determined by the Secretary for purposes of establishing fair market rentals under section 8(c) of the United States Housing Act of 1937.

"(9) **SECRETARY.**—The term 'Secretary' means the Secretary of Housing and Urban Development.

"(c) **MANAGEMENT OR DISPOSITION OF PROPERTY.**—

"(1) DISPOSITION TO PURCHASERS.—The Secretary may, in carrying out this section, dispose of a multifamily housing project owned by the Secretary on a negotiated, competitive bid, or other basis, on such terms as the Secretary deems appropriate considering the low-income character of the project and the market area in which the project is located and the requirements of subsection (a), to a purchaser determined by the Secretary to be capable of—

"(A) satisfying the conditions of the disposition;

"(B) implementing a sound financial and physical management program that is designed to enable the project to meet anticipated operating and repair expenses to ensure that the project will remain in decent, safe, and sanitary condition;

"(C) responding to the needs of the tenants and working cooperatively with tenant organizations;

"(D) providing adequate organizational, staff, and financial resources to the project; and

"(E) meeting such other requirements as the Secretary may determine.

"(2) CONTRACTING FOR MANAGEMENT SERVICES.—The Secretary may, in carrying out this section—

"(A) contract for management services for a multifamily housing project that is owned by the Secretary (or for which the Secretary is mortgagee in possession), on a negotiated, competitive bid, or other basis at a price determined by the Secretary to be reasonable, with a manager the Secretary has determined is capable of—

"(i) implementing a sound financial and physical management program that is designed to enable the project to meet anticipated operating and maintenance expenses to ensure that the project will remain in decent, safe, and sanitary condition;

"(ii) responding to the needs of the tenants and working cooperatively with tenant organizations;

"(iii) providing adequate organizational, staff, and other resources to implement a management program determined by the Secretary; and

"(iv) meeting such other requirements as the Secretary may determine;

"(B) require the owner of a multifamily housing project that is subject to a mortgage held by the Secretary to contract for management services for the project in the manner described in subparagraph (A); and

"(C) contract for management of such properties with nonprofit organizations and public agencies, including public housing authorities.

"(d) MAINTENANCE OF HOUSING PROJECTS.—

"(1) HOUSING PROJECTS OWNED BY THE SECRETARY.—In the case of multifamily housing projects that are owned by the Secretary (or for which the Secretary is mortgagee in possession), the Secretary shall—

"(A) to the greatest extent possible, maintain all such occupied projects in a decent, safe, and sanitary condition;

"(B) to the greatest extent possible, maintain full occupancy in all such projects; and

"(C) maintain all such projects for purposes of providing rental or cooperative housing.

"(2) HOUSING PROJECTS SUBJECT TO A MORTGAGE HELD BY SECRETARY.—In the case of any multifamily housing project that is subject to a mortgage held by the Secretary, the Secretary shall require the owner of the project to carry out the requirements of paragraph (1).

"(3) HOUSING STANDARDS.—In disposing of any multifamily housing project under this section, the Secretary shall enter into an agreement with the purchaser under which the purchaser agrees that the project will be rehabilitated so that it is in compliance with, and will be maintained in compliance with, any standards under applicable State or local laws, rules, ordinances, or regulations relating to the physical condition of the housing and any such standards established by the Secretary.

"(e) REQUIRED ASSISTANCE.—In disposing of any multifamily housing property under this section, the Secretary shall take, separately or in combination, one or more of the following actions:

"(1) CONTRACT WITH OWNER FOR PROJECT-BASED ASSISTANCE.—In the case of multifamily housing projects that are acquired by a purchaser other than the Secretary at foreclosure or after sale by the Secretary, the Secretary may enter into contracts under section 8 of the United States Housing Act of 1937 (to the extent budget authority is available) with owners of the projects, subject to the following requirements:

"(A) SUBSIDIZED OR FORMERLY SUBSIDIZED PROJECTS RECEIVING MORTGAGE-RELATED ASSISTANCE.—In the case of a subsidized or formerly subsidized project referred to in subparagraphs (A) through (C) of subsection (b)(2)—

"(i) the contract shall be sufficient to assist at least all units covered by an assistance contract under any of the authorities referred to in subsection (b)(2)(D) before acquisition, unless the Secretary acts pursuant to the provisions of subparagraph (C);

"(ii) the contract shall provide that, when a vacancy occurs in any unit in the project requiring project-based rental assistance pursuant to this subparagraph that is occupied by

a family who is not eligible for assistance under such section 8, the owner shall lease the available unit to a family eligible for assistance under such section 8; and

“(iii) the Secretary shall take actions to ensure that any unit in any such project that does not otherwise receive project-based assistance under this subparagraph remains available and affordable for the remaining useful life of the project, as defined by the Secretary; to carry out this clause, the Secretary may require purchasers to establish use or rent restrictions maintaining the affordability of such units.

“(B) SUBSIDIZED OR FORMERLY SUBSIDIZED PROJECTS RECEIVING RENTAL ASSISTANCE.—In the case of a subsidized or formerly subsidized project referred to in subsection (b)(2)(D) that is not subject to subparagraph (A)—

“(i) the contract shall be sufficient to assist at least all units in the project that are covered, or were covered immediately before foreclosure on or acquisition of the project by the Secretary, by an assistance contract under any of the provisions referred to in such subsection, unless the Secretary acts pursuant to provisions of subparagraph (C); and

“(ii) the contract shall provide that, when a vacancy occurs in any unit in the project requiring project-based rental assistance pursuant to this subparagraph that is occupied by a family who is not eligible for assistance under such section 8, the owner shall lease the available unit to a family eligible for assistance under such section 8.

“(C) EXCEPTIONS.—In lieu of providing project-based assistance under subparagraph (A)(i) or (B)(i) for a project, the Secretary may require certain units in unsubsidized projects to contain use restrictions providing that such units will be available to and affordable by very low-income families for the remaining useful life of the project, as defined by the Secretary, if—

“(i) the Secretary provides an increase in project-based assistance for very low-income persons for units within unsubsidized projects located within the same market area as the project otherwise required to be assisted with project-based assistance under subparagraph (A) or (B) that is at least equivalent to the units otherwise required to be so assisted; and

“(ii) upon disposition of the project, low-income families residing in units otherwise required to be assisted with project-based as-

sistance under subparagraph (A) or (B) receive tenant-based assistance under such section 8.

“(D) UNSUBSIDIZED PROJECTS.—Notwithstanding actions taken pursuant to subparagraph (C), in the case of unsubsidized projects, the contract shall be sufficient to provide—

“(i) project-based rental assistance for all units that are covered, or were covered immediately before foreclosure or acquisition, by an assistance contract under—

“(I) the new construction and substantial rehabilitation program under section 8(b)(2) of the United States Housing Act of 1937 (as in effect before October 1, 1983);

“(II) the property disposition program under section 8(b) of such Act;

“(III) the project-based certificate program under section 8 of such Act;

“(IV) the moderate rehabilitation program under section 8(e)(2) of such Act;

“(V) section 23 of such Act (as in effect before January 1, 1975);

“(VI) the rent supplement program under section 101 of the Housing and Urban Development Act of 1965; or

“(VII) section 8 of the United States Housing Act of 1937, following conversion from assistance under section 101 of the Housing and Urban Development Act of 1965; and

“(ii) tenant-based assistance under section 8 of the United States Housing Act of 1937 for families that are preexisting tenants of the project in units that, immediately before foreclosure or acquisition of the project by the Secretary, were covered by an assistance contract under the loan management set-aside program under section 8(b) of the United States Housing Act of 1937 at such time.

“(2) ANNUAL CONTRIBUTION CONTRACTS FOR TENANT-BASED ASSISTANCE.—In the case of multifamily housing projects that are acquired by a purchaser other than the Secretary at foreclosure or after sale by the Secretary, the Secretary may enter into annual contribution contracts with public housing agencies to provide tenant-based assistance under section 8 of the United States Housing Act of 1937 on behalf of all low-income families who, on the date that the project is acquired by the purchaser, reside in the project and are eligible for such assistance, subject to the following requirements:

"(A) REQUIREMENT OF SUFFICIENT AFFORDABLE HOUSING IN AREA.—The Secretary may not take action under this paragraph unless the Secretary determines that there is available in the area an adequate supply of habitable, affordable housing for very low-income families and other low-income families.

"(B) LIMITATION FOR SUBSIDIZED AND FORMERLY SUBSIDIZED PROJECTS.—The Secretary may not take actions under this paragraph in connection with units in subsidized or formerly subsidized projects for more than 10 percent of the aggregate number of units in such projects disposed of by the Secretary annually.

"(C) PROVISION OF PROJECT-BASED ASSISTANCE UNDER CHANGED CIRCUMSTANCES.—The Secretary shall, to the extent such amounts are available, provide project-based assistance under section 8 of the United States Housing Act of 1937 for any units in a project for which the Secretary has provided tenant-based assistance under this paragraph if, and only to the extent that, the owner demonstrates to the satisfaction of the Secretary within 24 months after the date of acquisition by the owner that—

"(i) the provision of such project-based assistance (I) is necessary to maintain the financial viability of the project because of changes occurring after such acquisition that are beyond the control of the owner, and (II) may reasonably be expected to maintain such financial viability; or

"(ii) sufficient habitable, affordable housing for very low-income families and other low-income families is not available in the market area in which the project is located.

Assistance provided pursuant to this subparagraph shall have a term of not more than 5 years.

"(3) OTHER ASSISTANCE.—

"(A) IN GENERAL.—In accordance with the authority provided under the National Housing Act, the Secretary may reduce the selling price, apply use or rent restrictions on certain units, or provide other financial assistance to the owners of multi-family housing projects that are acquired by a purchaser other than the Secretary at foreclosure, or after sale by the Secretary, on terms that ensure that—

"(i) at least the units in the project otherwise required to receive project-based assistance pursuant to subparagraphs (A), (B), or (D) of paragraph (1) are available to and affordable by low-income persons; and

"(ii) for the remaining useful life of the project, as defined by the Secretary, there shall be in force such use or rent restrictions as the Secretary may prescribe.

"(B) VERY LOW-INCOME TENANTS.—If, as a result of actions taken pursuant to this paragraph, the rents charged to any very low-income families residing in the project who are otherwise required (pursuant to subparagraph (A), (B), or (D) of paragraph (1)) to receive project-based assistance under section 8 of the United States Housing Act of 1937 exceed the amount payable as rent under section 3(a) of the United States Housing Act of 1937, the Secretary shall provide assistance under section 8 of such Act to such families.

"(4) TRANSFER FOR USE UNDER OTHER PROGRAMS OF SECRETARY.—

"(A) IN GENERAL.—The Secretary may transfer a multifamily housing project—

"(i) to a public housing agency for use of the project as public housing; or

"(ii) to an entity eligible to own or operate housing under assisted section 202 of the Housing Act of 1959 or under section 811 of the Cranston-Gonzalez National Affordable Housing Act for use as supportive housing under either of such sections.

"(B) REQUIREMENTS FOR AGREEMENT.—An agreement providing for the transfer of a project described in subparagraph (A) shall—

"(i) contain such terms, conditions, and limitations as the Secretary determines appropriate, including requirements to ensure use of the project as public housing, supportive housing under section 202 of the Housing Act of 1959, or supportive housing under section 811 of the Cranston-Gonzalez National Affordable Housing Act, as applicable; and

"(ii) ensure that no tenant of the project will be displaced as a result of actions taken under this paragraph.

"(f) DISCRETIONARY ASSISTANCE.—In addition to the actions taken under subsection (e) for a multifamily housing project, the Secretary may take any of the following actions:

"(1) SHORT-TERM LOANS.—The Secretary may provide a short-term loan to facilitate the sale of a multifamily housing project to a nonprofit organization or a public agency if—

"(A) authority for such loans is provided in advance in an appropriation Act;

"(B) such loan has a term of not more than 5 years;

“(C) the Secretary determines, based upon documentation provided to the Secretary, that the borrower has obtained a commitment of permanent financing to replace the short-term loan from a lender who meets standards established by the Secretary; and

“(D) the terms of such loan is consistent with prevailing practices in the marketplace or the provision of such loan results in no cost to the Government, as defined in section 502 of the Congressional Budget Act of 1974.

“(2) TENANT-BASED ASSISTANCE.—The Secretary may make available tenant-based assistance under section 8 of the United States Housing Act of 1937 to very low-income families residing in a multifamily housing project that do not otherwise qualify for project-based assistance.

“(3) ALTERNATIVE USES.—

“(A) IN GENERAL.—Notwithstanding any other provision of law, after providing notice to and an opportunity to comment by existing tenants, the Secretary may allow not more than—

“(i) 10 percent of the total number of units in multifamily housing projects that are disposed of by the Secretary during any 1-year period to be made available for uses other than rental or cooperative uses, including low-income homeownership opportunities, or in any particular project, community space, office space for tenant or housing-related service providers or security programs, or small business uses, if such uses benefit the tenants of the project; and

“(ii) 5 percent of the total number of units in multifamily housing projects that are disposed of by the Secretary during any 1-year period to be used in any manner, if the Secretary and the unit of general local government or area-wide governing body determine that such use will further fair housing, community development, or neighborhood revitalization goals.

“(B) DISPLACEMENT PROTECTION.—The Secretary may take actions under subparagraph (A) only if—

“(i) tenant-based rental assistance under section 8 of the United States Housing Act of 1937 is made available to each eligible family residing in the project that is displaced as a result of such actions; and

“(ii) the Secretary determines that sufficient habitable, affordable rental housing is available in the market area in which the project is located to allow use of such assistance.

"(g) REQUIRED ASSISTANCE FOR CERTAIN PROJECTS.—In disposing under this section of multifamily housing projects, the Secretary shall, to the extent that such assistance is available—

"(1) in the case of any project located in a market area in which habitable, affordable rental housing for very low-income families is not sufficiently available, provide tenant-based or project-based rental assistance under section 8 of the United States Housing Act of 1937 (depending on the circumstances of the family) to very low-income families who are preexisting tenants of the project and do not otherwise qualify for project-based assistance; and

"(2) provide project-based assistance for very low-income families who are preexisting tenants of the project to the extent that such assistance is necessary to maintain the financial viability of the project and is reasonably expected to maintain such financial viability.

"(h) RENT RESTRICTIONS.—

"(1) AUTHORITY FOR USE IN UNSUBSIDIZED PROJECTS.—In carrying out the goals specified in subsection (a), the Secretary may require certain units in unsubsidized projects to be subject to use or rent restrictions providing that such units will be available to and affordable by very low-income persons for the remaining useful life of the property, as defined by the Secretary.

"(2) REQUIREMENT REGARDING SUBSIDIZED AND FORMERLY SUBSIDIZED PROJECTS.—In disposing under this section of any subsidized or formerly subsidized multifamily housing project, the Secretary shall require rent restrictions providing that any unassisted very low-income family who resides in a unit in the project on the date of disposition may not pay as rent for the unit an amount in excess of 30 percent of the adjusted income of the family at any time during the period beginning upon such disposition and ending upon the earlier of—

"(A) 15 years after such disposition; or

"(B) the time at which the family first fails to qualify as a very low-income family.

"(3) REQUIREMENT REGARDING UNSUBSIDIZED PROJECTS.— Unless the Secretary determines that the applicability of rent restrictions under this paragraph to a project would unreasonably impede the disposition of the project, in disposing under this section of any unsubsidized multifamily housing project the Secretary shall require rent restrictions providing that any unassisted very low-income family who resides in a unit in the project on the date of disposition may not pay as rent for the unit an amount in excess of 30 percent of the adjusted income of the family at any time

during the period beginning upon such disposition and ending upon the earlier of—

“(A) 15 years after such disposition; or

“(B) the time at which the family first fails to qualify as a very low-income family.

“(4) PHASE-IN OF RENT INCREASES.—If the disposition under this section of any multifamily housing project results in any rent increases for any very low-income families who are preexisting tenants of the project and are paying less than 30 percent of the adjusted income of the family for rent, the Secretary shall provide that such rent increases shall be phased in equally over a period of not less than 3 years.

“(5) DEFINITION OF ‘UNASSISTED VERY LOW-INCOME FAMILY’.—For purposes of this subsection, the term ‘unassisted very low-income family’ means a very low-income family who resides in a unit that is not assisted with project-based assistance under section 8 of the United States Housing Act of 1937 and on whose behalf tenant-based assistance under such section is not provided.

“(i) CONTRACT REQUIREMENTS.—Contracts for project-based rental assistance under section 8 of the United States Housing Act of 1937 provided pursuant to this section shall be subject to the following requirements:

“(1) CONTRACT TERM.—The contract shall have a term of 15 years, except that—

“(A) the term may be less than 15 years to the extent that the Secretary finds that, based on the rental charges and financing for the multifamily housing project to which the contract relates, the financial viability of the project can be maintained under a contract having such a term;

“(B) to the extent that units receive project-based assistance for a contract term of less than 15 years, the Secretary shall require that the amount of rent payable by tenants of the project for such units shall not exceed the amount payable for rent under section 3(a) of the United States Housing Act of 1937 for a period of at least 15 years; and

“(C) the term may be less than 15 years if such assistance is provided—

“(i) under a contract authorized under section 6 of the HUD Demonstration Act of 1993; and

“(ii) pursuant to a disposition plan under this section for a project that is determined by the Secretary to be otherwise in compliance with this section.

“(2) CONTRACT RENT.—

“(A) IN GENERAL.—The Secretary shall establish contract rents for section 8 project-based rental contracts issued under this section at levels that

provide sufficient amounts for the necessary costs of rehabilitating and operating the multifamily housing project and do not exceed 144 percent of the existing housing fair market rentals for the market area in which the project assisted under the contract is located.

“(B) UP-FRONT GRANTS AND LOANS.—If the Secretary determines that action under this subparagraph is more cost-effective, the Secretary may utilize the budget authority provided for contracts issued under this section for project-based assistance under section 8 of the United States Housing Act of 1937 to (in addition to providing project-based section 8 rental assistance)—

“(i) provide up-front grants to nonprofit organizations or public housing agencies for the necessary cost of rehabilitation; or

“(ii) pay any cost to the Government, as defined in section 502 of the Congressional Budget Act of 1974, for loans made pursuant to subsection (f)(1).

“(j) DISPOSITION PLAN.—

“(1) IN GENERAL.—Prior to the sale of a multifamily housing project that is owned by the Secretary, the Secretary shall develop an initial disposition plan for the project that specifies the minimum terms and conditions of the Secretary for disposition of the project, the initial sales price that is acceptable to the Secretary, and the assistance that the Secretary plans to make available to a prospective purchaser in accordance with this section. The initial sales price shall be reasonably related to the intended use of the property after sale, any rehabilitation requirements for the project, the rents for units in the project that can be supported by the market, the amount of rental assistance available for the project under section 8 of the United States Housing Act of 1937, and the occupancy profile of the project.

“(2) COMMUNITY AND TENANT INPUT.—In carrying out this section, the Secretary shall develop procedures—

“(A) to obtain appropriate and timely input into disposition plans from officials of the unit of general local government affected, the community in which the project is situated, and the tenants of the project; and

“(B) to facilitate, where feasible and appropriate, the sale of multifamily housing projects to existing tenant organizations with demonstrated capacity, to public or nonprofit entities that represent or are affiliated with existing tenant organizations, or to other public or nonprofit entities.

“(3) TECHNICAL ASSISTANCE.—To carry out the procedures developed under paragraph (2), the Secretary

may provide technical assistance, directly or indirectly, and may use amounts available for technical assistance under the Emergency Low Income Housing Preservation Act of 1987, subtitle C of the Low-Income Housing Preservation and Resident Homeownership Act of 1990, subtitle B of title IV of the Cranston-Gonzalez National Affordable Housing Act, or this section, for the provision of technical assistance under this paragraph. Recipients of technical assistance funding under the provisions referred to in this paragraph shall be permitted to provide technical assistance to the extent of such funding under any of such provisions or under this paragraph, notwithstanding the source of the funding.

"(k) RIGHT OF FIRST REFUSAL FOR LOCAL AND STATE GOVERNMENT AGENCIES.—

"(1) NOTIFICATION OF ACQUISITION OF TITLE.—Not later than 30 days after acquiring title to a multifamily housing project, the Secretary shall notify the unit of general local government (which, for purposes of this subsection, shall include any public housing agency) for the area in which the project is located and the State agency or agencies designated by the Governor of the State in which the project is located of such acquisition.

"(2) RIGHT OF FIRST REFUSAL.—During the period beginning upon acquisition of title to a multifamily housing project and ending 45 days after completion of notification under paragraph (1), the Secretary may offer to sell and may sell the project only to the unit of general local government or the designated State agency.

"(3) EXPRESSION OF INTEREST.—The unit of general local government or designated State agency may submit to the Secretary a preliminary expression of interest in a project not later than 45 days after receiving notification from the Secretary under paragraph (1) regarding the project. The Secretary may take such actions as may be necessary to require the unit of general local government or designated State agency to substantiate such interest.

"(4) TIMELY EXPRESSION OF INTEREST.—If the unit of general local government or designated State agency has submitted an expression of interest in a project before the expiration of the 45-day period referred to in paragraph (3) and has substantiated such interest if requested, the Secretary, upon approval of a disposition plan for the project, shall—

"(A) notify the unit of general local government and designated State agency of the terms and conditions of the disposition plan; and

"(B) provide that, for 90 days after the date of such notification, only the unit of general local government or designated State agency may make an offer to purchase the project.

"(5) FAILURE TO TIMELY EXPRESS INTEREST.—If the unit of general local government or designated State agency does not timely express and, if requested, substantiate interest in a project as provided in paragraph (4), the Secretary may offer the project for sale to any interested person or entity upon approval of the disposition plan for the project.

"(6) ACCEPTANCE OF OFFERS.—If the unit of general local government or designated State agency timely expresses and, if requested, substantiates interest in a project as provided in paragraph (4), the Secretary shall accept an offer made by the unit of general local government or designated State agency during the 90-day period for the project under paragraph (4)(B) that complies with the terms and conditions of the disposition plan for the project. The Secretary may accept an offer that does not comply with the terms and conditions of the disposition plan if the Secretary determines that the offer will further the goals specified in subsection (a) by actions that include extension of the duration of low-income affordability restrictions or otherwise restructuring the transaction in a manner that enhances the long-term affordability for low-income persons. The Secretary may reduce the initial sales price in exchange for the extension of low-income affordability restrictions beyond the period of assistance contemplated by the attachment of assistance pursuant to subsection (i)(1) and in order to facilitate affordable rents.

"(7) FAILURE TO SELL TO LOCAL OR STATE GOVERNMENT AGENCY.—If the Secretary and the unit of general local government or designated State agency cannot reach agreement on an offer for purchase of a project within the 90-day period for the project under paragraph (4)(B), the Secretary may offer the project for sale to the general public.

"(8) PURCHASE BY UNIT OF GENERAL LOCAL GOVERNMENT OR DESIGNATED STATE AGENCY.—Notwithstanding any other provision of law, a unit of general local government (including a public housing agency) or designated State agency may purchase a subsidized or formerly subsidized project in accordance with this subsection.

"(9) APPLICABILITY.—This subsection shall apply to projects that are acquired on or after the effective date of this subsection. With respect to projects acquired before such effective date, the Secretary may apply—

"(A) the requirements of paragraphs (2) and (3) of section 203(e) (as in effect immediately before the effective date of this subsection); or

"(B) the requirements of paragraphs (1) through (7) of this subsection, if—

"(i) the Secretary gives the unit of general local government or designated State agency 45 days to express interest in the project; and

"(ii) the unit of general local government or designated State agency expresses interest in the project before the expiration of the 45-day period, and substantiates such interest if requested, within 90 days from the date of notification of the terms and conditions of the disposition plan to make an offer to purchase the project.

"(10) TRANSFER BY LOCAL OR STATE GOVERNMENT AGENCY PURCHASERS.—The Secretary shall permit units of general local government and designated State agencies to transfer multifamily housing projects acquired under the right of first refusal under this subsection to a private entity, but only if the local government or State agency clearly identifies its intention to transfer the project in the offer to purchase the property accepted by the Secretary under this subsection.

"(1) DISPLACEMENT OF TENANTS AND RELOCATION ASSISTANCE.—

"(1) IN GENERAL.—Whenever tenants will be displaced as a result of the disposition of, or repairs to, a multifamily housing project that is owned by the Secretary (or for which the Secretary is mortgagee in possession), the Secretary shall identify tenants who will be displaced and shall notify all such tenants of their pending displacement and of any relocation assistance that may be available. In the case of the disposition of tenants of a multifamily housing project that is not owned by the Secretary (and for which the Secretary is not mortgagee in possession), the Secretary shall require the owner of the project to carry out the requirements of this paragraph.

"(2) RIGHTS OF DISPLACED TENANTS.—The Secretary shall ensure for any such tenant (who continues to meet applicable qualification standards) the right—

"(A) to return, whenever possible, to a repaired unit;

"(B) to occupy a unit in another multifamily housing project owned by the Secretary;

"(C) to obtain housing assistance under the United States Housing Act of 1937; or

"(D) to receive any other available relocation assistance as the Secretary determines to be appropriate.

"(m) MORTGAGE AND PROJECT SALES.—

"(1) IN GENERAL.—The Secretary may not approve the sale of any loan or mortgage held by the Secretary (including any loan or mortgage owned by the Government National Mortgage Association) on any subsidized project or formerly subsidized project, unless

such sale is made as part of a transaction that will ensure that such project will continue to operate at least until the maturity date of such loan or mortgage, in a manner that will provide rental housing on terms at least as advantageous to existing and future tenants as the terms required by the program under which the loan or mortgage was made or insured prior to the assignment of the loan or mortgage on such project to the Secretary.

"(2) SALE OF CERTAIN PROJECTS.—The Secretary may not approve the sale of any subsidized project—

"(A) that is subject to a mortgage held by the Secretary, or

"(B) if the sale transaction involves the provision of any additional subsidy funds by the Secretary or a recasting of the mortgage, unless such sale is made as part of a transaction that will ensure that the project will continue to operate, at least until the maturity date of the loan or mortgage, in a manner that will provide rental housing on terms at least as advantageous to existing and future tenants as the terms required by the program under which the loan or mortgage was made or insured prior to the proposed sale of the project.

"(3) MORTGAGE SALES TO STATE AND LOCAL GOVERNMENTS.—Notwithstanding any provision of law that requires competitive sales or bidding, the Secretary may carry out negotiated sales of subsidized or formerly subsidized mortgages held by the Secretary, without the competitive selection of purchasers or intermediaries, to units of general local government or State agencies, or groups of investors that include at least one such unit of general local government or State agency, if the negotiations are conducted with such agencies, except that—

"(A) the terms of any such sale shall include the agreement of the purchasing agency or unit of local government or State agency to act as mortgagee or owner of a beneficial interest in such mortgages, in a manner consistent with maintaining the projects that are subject to such mortgages for occupancy by the general tenant group intended to be served by the applicable mortgage insurance program, including, to the extent the Secretary determines appropriate, authorizing such unit of local government or State agency to enforce the provisions of any regulatory agreement or other program requirements applicable to the related projects; and

"(B) the sales prices for such mortgages shall be, in the determination of the Secretary, the best prices that may be obtained for such mortgages from a unit of general local government or State agency, consistent with the expectation and inten-

tion that the projects financed will be retained for use under the applicable mortgage insurance program for the life of the initial mortgage insurance contract.

"(4) SALE OF MORTGAGES COVERING UNSUBSIDIZED PROJECTS.—Notwithstanding any other provision of law, the Secretary may sell mortgages held on unsubsidized projects on such terms and conditions as the Secretary may prescribe.

"(n) REPORT TO CONGRESS.—Not later than June 1 of each year, the Secretary shall submit to the Congress a report describing the status of multifamily housing projects owned by or subject to mortgages held by the Secretary. The report shall include—

"(1) the name, address, and size of each project;

"(2) the nature and date of assignment of each project;

"(3) the status of the mortgage for each project;

"(4) the physical condition of each project;

"(5) for each subsidized or formerly subsidized project, an occupancy profile of the project, stating the income, family size, race, and ethnic origin of current residents and the rents paid by such residents;

"(6) the proportion of units in each project that are vacant;

"(7) the date on which the Secretary became mortgagee in possession of each project, if applicable;

"(8) the date and conditions of any foreclosure sale for a project;

"(9) the date of acquisition of each project by the Secretary, if applicable;

"(10) the date and conditions of any property disposition sale for a project;

"(11) a description of actions undertaken pursuant to this section, including a description of the effectiveness of such actions and any impediments to the disposition or management of multifamily housing projects;

"(12) a description of any of the functions performed in connection with this section that are contracted out to public or private entities or to States; and

"(13) a description of the activities carried out under subsection (k) during the preceding year."

(c) CLARIFICATION OF FEDERAL PREFERENCES.—

(1) PUBLIC HOUSING TENANCY.—Section 6(c)(4)(A)(i) of the United States Housing Act of 1937 (42 U.S.C. 1437d(c)(4)(A)(i)) is amended by inserting after "displaced" the following: "(including displacement because of disposition of a multifamily housing project under section 203 of the Housing and Community Development Amendments of 1978)".

(2) SECTION 8 ASSISTANCE.—Section 8(d)(1)(A)(i) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(1)(A)(i)) is amended by inserting after "dis-

placed" the following: "(including displacement because of disposition of a multifamily housing project under section 203 of the Housing and Community Development Amendments of 1978)".

(d) **DEFINITION OF OWNER.**—Section 8(f)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437f(1)) is amended by inserting "an agency of the Federal Government," after "cooperative,".

(e) **AMENDMENT TO NATIONAL HOUSING ACT.**—Title V of the National Housing Act (12 U.S.C. 1731a et seq.) is amended by adding at the end the following new section:

**"PARTIAL PAYMENT OF CLAIMS ON MULTIFAMILY HOUSING
PROJECTS**

"SEC. 541. (a) AUTHORITY.—Notwithstanding any other provision of law, if the Secretary is requested to accept assignment of a mortgage insured by the Secretary that covers a multifamily housing project (as such term is defined in section 203(b) of the Housing and Community Development Amendments of 1978) and the Secretary determines that partial payment would be less costly to the Federal Government than other reasonable alternatives for maintaining the low-income character of the project, the Secretary may request the mortgagee, in lieu of assignment, to—

"(1) accept partial payment of the claim under the mortgage insurance contract; and

"(2) recast the mortgage, under such terms and conditions as the Secretary may determine.

"(b) REPAYMENT.—As a condition to a partial claim payment under this section, the mortgagor shall agree to repay to the Secretary the amount of such payment and such obligation shall be secured by a second mortgage on the property on such terms and conditions as the Secretary may determine."

(f) **EFFECTIVE DATE.**—The Secretary shall issue interim regulations necessary to implement the amendments made by subsections (b) through (d) not later than 90 days after the date of the enactment of this Act. Such interim regulations shall take effect upon issuance and invite public comment on the interim regulations. The Secretary shall issue final regulations to implement such amendments after opportunity for such public comment, but not later than 12 months after the date of issuance of such interim regulations.

SEC. 6002. SECTION 235 MORTGAGE REFINANCING.

Section 235(r) of the National Housing Act is amended—

(1) in paragraph (2)(C), by inserting after "refinanced" the following: ", plus the costs incurred in connection with the refinancing as described in paragraph (4)(B) to the extent that the amount for those costs is not otherwise included in the interest rate as

permitted by subparagraph (E) or paid by the Secretary as authorized by paragraph (4)(B)";

(2) in paragraph (4)—

(A) in the matter preceding subparagraph (A), by inserting after "otherwise" the following: "and the mortgagee (with respect to the amount described in subparagraph (A))"; and

(B) in subparagraph (A), by inserting after "mortgagor" the following: "and the mortgagee"; and

(3) by amending paragraph (5) to read as follows:

"(5) The Secretary shall use amounts of budget authority recaptured from assistance payments contracts relating to mortgages that are being refinanced for assistance payments contracts with respect to mortgages insured under this subsection. The Secretary may also make such recaptured amounts available for incentives under paragraph (4)(A) and the costs incurred in connection with the refinancing under paragraph (4)(B). For purposes of subsection (c)(3)(A), the amount of recaptured budget authority that the Secretary commits for assistance payments contracts relating to mortgages insured under this subsection and for amounts paid under paragraph (4) shall not be construed as unused."

SEC. 6003. USE OF EMERGENCY ASSISTANCE FUNDS FOR RESIDENCY IN MULTIFAMILY HOUSING DISPOSITION PROJECTS.

Section 203(f) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1701z-11), as amended by section 6001 of this Act, is further amended by adding at the end the following new paragraph:

"(4) EMERGENCY ASSISTANCE FUNDS.—The Secretary may make arrangements with State agencies and units of general local government of States receiving emergency assistance under part A of title IV of the Social Security Act for the provision of assistance under such Act on behalf of eligible families who would reside in any multifamily housing projects."

SEC. 6004. ADDITIONAL EMPLOYEES TO FACILITATE DISPOSITION OF FHA INVENTORY PROPERTIES.

Notwithstanding any other provision of law, during fiscal years 1993, 1994, and 1995 amounts in the various funds of the Federal Housing Administration otherwise available to the Secretary of Housing and Urban Development for non-overhead expenses associated with processing, accounting, loan servicing, asset management, and disposition services may be used by the Secretary for personnel compensation and benefits for temporary employees of the Department of Housing and Urban Development employed to manage, service, and dispose of single family and multifamily properties insured by, assigned to, or owned by the Secretary. The Secretary may employ not more than 400 temporary employees at any one time using amounts made available pursuant to this section, no such

employee may be employed in a temporary position pursuant to this section for a period in excess of 2 years, and such employees shall not be considered for purposes of any personnel ceiling applicable to the Department of Housing and Urban Development or any unit therein or any personnel ceiling applicable to temporary employees of the Federal Government.

SEC. 6005. HUD STREAMLINING.

The Secretary of Housing and Urban Development shall carry out the recommendation of the Report of the National Performance Review, issued on September 7, 1993, that the Department streamline its headquarters, regional, and field office structure and consolidate and reduce its size, without regard to the requirements of section 7(p) of the Department of Housing and Urban Development Act.

SHORT SUMMARY

SECTION 6001. MULTIFAMILY PROPERTY DISPOSITION

Sec. 6001 of the Government Reform and Savings Act of 1993, H.R. 3400, makes a number of changes to section 203 of the Housing and Community Development Amendments of 1978, the statute governing multifamily property disposition. These changes are intended to save budget authority, an estimated \$400 million, and speed up the property disposition process. The changes also are intended to preserve as many units of rental housing as affordable housing as possible, within the budgetary constraints and continue project based rental assistance to units and tenants already receiving such assistance. The provisions strike a balance among the need to preserve affordable housing for very low income families; the need to accelerate the disposition of the property now in the inventory; and the need to reduce the costs, both holding and long term rental assistance, of property disposition.

The proposed reforms reduce the universe of units that by law must be covered by long term project based rental assistance and reduce federal costs. The provisions require 15 year project based section 8 assistance, depending on the term that is required to maintain long term affordability upon disposition, only to units that are under rental assistance contracts in both subsidized and unsubsidized buildings. However, tenants and units that do not receive project based assistance may receive alternative assistance designed to preserve the housing as affordable housing and achieve long term affordability and viability. Much of the alternative assistance affords tenant protections against burdensome rent increases and displacement, many of which are unavailable under current law. The assistance available, other than project based section 8, is as follows:

- (1) tenant based assistance for certain tenants not receiving project based assistance in both subsidized and unsubsidized projects; except that project based assistance shall be available in tight markets or to maintain a project's viability under carefully defined circumstances;

(2) defined affordable rent caps or restrictions pegged to 30 percent of 50 percent of median income for very low income families and 30 percent of 80 percent for low income families;

(3) affordability period defined as the remaining useful life of the property as determined by the Secretary;

(4) protections for tenants against burdensome rent increases after disposition and rehabilitation; rent increases for any very low income tenant paying less than 30 percent of adjusted income for rent will be phased in over a three year period, not to exceed 30 percent of adjusted income;

(5) gap section 8 assistance for very low income families to cover any shortfall between 30 percent of adjusted income and the restricted affordable rent;

(6) discounted purchase prices from HUD depending on the rehabilitation necessary, the rents in the housing market, the availability of section 8 assistance, and the occupancy profile of the tenants;

(7) short term bridge loans, subject to appropriations, for nonprofits and public agencies;

(8) up front grants and loans for nonprofits and public agencies from amounts made available for section 8, if grants and loans are more cost effective than rental assistance;

(9) technical assistance funds to nonprofit and public agency purchasers under the right of first refusal;

(10) relocation assistance for certain tenants and displacement protections, including right to return to the unit after rehabilitation and assistance under the 1937 Housing Act;

(11) maintenance and upkeep standards for properties in the inventory and upon sale;

(12) disposition for other than rental housing, including homeownership, community space, office space for housing related activities, and small businesses that benefit the tenants for up to 10 percent of the housing that is disposed of in any one year;

(13) disposition of no more than 5 percent of the housing disposed of in any one year for any use agreed upon by the Secretary and the community if such use will further fair housing, community development, or neighborhood revitalization; and

(14) project based assistance in unsubsidized buildings equivalent to that which would have been required in subsidized buildings in order to achieve mixed income projects in the same market area.

The changes address what has consistently been identified as the major problem facing the new HUD administration. It is estimated that to dispose of all the inventory in its backlog with 15 year section 8 would require \$7 billion in budget authority between fiscal year 1994 and fiscal year 1998. HUD also predicts that without reforms to the property disposition program the inventory will increase from 444 projects at the beginning of fiscal year 1993 to 742 at the end of fiscal year 1998.

Of the 75,947 units in projects that have HUD held mortgages or are HUD owned, the Department estimates that under current law 15 year section 8 assistance would be required to cover 54,647 units at a cost of \$5.4 billion. Of the covered units, 36,734 are now

in subsidized buildings, and 17,913 are now in unsubsidized buildings. Under the proposed changes, section 8 assistance would be required to cover nearly 42,447 units that currently are receiving rental assistance, or 12,200 fewer units. Under the proposal, 33,313 units that are in currently subsidized buildings would continue to be covered by section 8 assistance but only 9,134 units in currently unsubsidized buildings would be covered by section 8 assistance. The remaining 8,779 units in unsubsidized buildings would not be covered by section 8 assistance. However, many of the units could be preserved as affordable housing using other strategies outlined above.

SECTION 6002. SECTION 235 MORTGAGE REFINANCING

Section 6002 of H.R. 3400, the Government Reform and Savings Act of 1993, amends section 235(r), the refinancing program for section 235 mortgages, to enable HUD to provide borrowers and lenders incentives to refinance section 235 mortgages. Refinancing section 235 mortgages will save the federal government an estimated \$302 million over five years by lowering the interest rates when cost-effective. Section 6002 permits HUD to: (1) insure an amount of the Section 235 mortgage that includes costs incurred during the refinancing process, (2) provide incentives to the mortgagee, in addition to the mortgagor, to refinance section 235 mortgages, and (3) use funds recaptured from assistance payments contracts relating to the refinanced mortgages to pay for refinancing costs and incentives. This section will afford HUD the flexibility to offer incentives, and provide HUD an alternative method of financing the program that is not dependent on the appropriations process.

The section 235 Homeownership Assistance program, which provided mortgage insurance and an interest subsidy program for low and moderate income homebuyers, was created in the 1968 National Housing Act, and terminated by Congress in 1987. While this program is terminated, HUD's subsidy covers the payments over the 30 year terms of the loans assigned; therefore, the interest subsidies will continue for years. There are 35,000 section 235 mortgages with interest rates at or above 10 percent, insured for over \$1.3 billion. The savings resulting from refinancing would be far greater than the costs incurred; therefore, section 235(r) should be written to allow HUD to provide a variety of incentive options to borrowers and lenders for refinancing purposes.

SECTION 6003. USE OF EMERGENCY ASSISTANCE FUNDS FOR RESIDENCY IN MULTIFAMILY HOUSING DISPOSITION PROJECTS

This section amends section 203(f) of the Housing and Community Development Amendments of 1978, to allow HUD to work with State and local government agencies that currently provide emergency shelter to homeless families by utilizing "welfare hotels", through the use of Federal assistance funds, to use those Federal funds to assist in housing homeless families in multifamily housing projects.

SECTION 6004. ADDITIONAL EMPLOYEES TO FACILITATE DISPOSITION OF FHA INVENTORY PROPERTIES

This section would allow HUD to use amounts otherwise available during fiscal years 1993, 1994 and 1995 in various funds of the Federal Housing Administration for non-overhead expenses, to hire temporary employees to assist in managing, servicing and disposing of HUD's inventory of multifamily and single family properties. Under this section, HUD would be prohibited from hiring more than 400 temporary employees at any one time, using the amounts provided pursuant to this section. In addition, those employees hired under this section, could not be employed in a temporary position for more than a two year period.

SECTION 6005. HUD STREAMLINING

This section, HUD Streamlining, requires the Department of Housing and Urban Development (HUD) to implement the Vice President's National Performance Review (NPR) recommendation which will save an estimated \$147 million in budget authority. Under the NPR, HUD's Washington, regional and field office structure will be streamlined by consolidating the regional and field office duties, and reducing the number of staff over time. The NPR recommends that HUD eliminate its regional offices, and the assistant secretaries organize their functions in the field. In the next five years the total staff will be reduced by 1500 employees over the next five years through staff attrition and retirement incentives. In accomplishing this task, HUD is exempt from section 7(p) of the Department of Housing and Urban Development Act which requires the Secretary to publish a cost-benefit analysis of any departmental reorganization effort in the Federal Register for a 90-day period.

SECTION-BY-SECTION ANALYSIS

SEC. 6001. MULTIFAMILY PROPERTY DISPOSITION

Findings: Provides Congressional findings that—(1) the portfolio of multifamily housing project mortgages insured by the FHA is severely troubled and at risk of default; (2) the inventory of HUD-owned multifamily housing projects is rapidly increasing; (3) the Federal cost of owning and maintaining multifamily housing projects is escalating; (4) the inventory of multifamily housing projects subject to HUD-held mortgages has increased dramatically; (5) the inventory of insured and formerly insured multifamily housing projects is rapidly deteriorating; (6) over 5 million families have a critical need for affordable and habitable housing; and (7) the current statutory framework for disposition of multifamily housing projects impedes the Government's ability to dispose of properties.

Management and disposition of multifamily housing projects: Amends section 203 of the Housing and Community Development Amendments of 1978 to provide the following:

(a) **Goals:** Provides that HUD is to manage or dispose of multifamily housing projects that are HUD-owned or subject to a HUD-held mortgage in a manner that is—(1) consistent with the Na-

tional Housing Act and this section; (2) will protect Federal financial interests; and (3) will, in the least costly fashion among reasonable alternatives, further the following goals: preserve housing for low-income persons; preserve and revitalize residential neighborhoods; maintain existing housing stock in a decent, safe, and sanitary condition; minimize the involuntary displacement of tenants; maintain housing for the purpose of providing rental housing, cooperative housing, and homeownership opportunities for low-income persons; and minimize the need to demolish multifamily housing projects. Provides that HUD may balance competing goals relating to individual projects in a manner that will further the purposes of this section.

(b) Definitions: Defines, for purposes of this section:

(1) Multifamily housing project: Any multifamily rental housing project which is, or prior to acquisition by HUD, was assisted or insured under the National Housing Act, or subject to a loan under section 202 of the Housing Act of 1959.

(2) Subsidized project: A multifamily housing project receiving any of the following types of assistance immediately prior to the assignment, or acquisition of the mortgage, by HUD:

(A) below market interest rate mortgage under section 221(d)(5) of the National Housing Act (NHA);

(B) interest reduction payments made in connection with mortgages insured under section 236 of the NHA;

(C) direct loans under section 202 of the Housing Act of 1959;

(D) assistance in the form of—(i) rent supplement payments under section 101 of the Housing and Urban Development Act of 1965; (ii) additional assistance payments under section 236(f)(2) of the NHA; (iii) housing assistance payments under section 23 of the United States Housing Act of 1937; or (iv) section 8 housing assistance (excluding tenant based assistance), if such assistance payments are made to more than 50 percent of the units in the project (except for purposes of section 183(c) of the Housing and Community Development Act of 1987).

(3) Formerly subsidized project: A HUD-owned multifamily housing project that was a subsidized project immediately before its acquisition by HUD.

(4) Unsubsidized project: A HUD-owned multifamily housing project that is not subsidized or formerly subsidized.

(5) Affordable: A unit is to be considered affordable if:

(A) for units occupied—(i) by for very low income families, the rent does not exceed 30 percent of 50 percent of the area median income, as determined by HUD, with adjustments for smaller or larger families—except that HUD can establish the rent based on an amount higher or lower than 50 percent based on HUD findings that this is necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes; and (ii) by low income families other than very low-income tenants, the rent does not exceed 30 percent of 80 percent of the area median income, as determined by HUD—except that HUD can establish income ceilings higher or lower than 80 percent based on the same HUD findings described in subparagraph (A) above; or

(B) the unit, or the family residing in the unit, is receiving Section 8 assistance.

(6) Low-income families and very-low income families: Have the same meaning as under section 3(b) of the 1937 Act.

(7) Preexisting tenant: With respect to a multifamily housing project, a family that resides in a unit in the project, and that was residing in the unit immediately before foreclosure or acquisition by HUD.

(8) Market area: A market area determined by HUD for purposes of establishing fair market rentals under section 8 of the 1937 Act.

(9) Secretary: The Secretary of Housing and Urban Development.

(c) Management or disposition of property:

(1) Disposition to purchasers: Authorizes HUD to dispose of a HUD-owned multifamily housing project on a negotiated, competitive bid, or other basis deemed appropriate, considering the low-income character of the project, the housing market area, and the goals of this section, to a purchaser, determined by HUD to be capable of: (A) satisfying the conditions of the disposition; (B) implementing a sound financial and physical management program to ensure that the property remains in a decent, safe and sanitary condition; (C) responding to tenant needs; (D) providing adequate organizational staff and financial resources; and (E) meeting such other requirements as determined by HUD.

(2) Contracting for management services: Authorizes HUD to contract for management services for HUD-owned multifamily projects, or projects with HUD-held mortgages, on a negotiated, competitive basis, with a manager HUD has determined is capable of: (A) implementing a sound financial and physical management program; (B) responding to tenant needs; (C) providing adequate organizational, staff and other resources; and (D) meeting such other requirements as determined by HUD. Provides that HUD can require the owner of a project subject to a HUD-held mortgage to similarly contract for management services. Provides that HUD may contract for management services with nonprofit organizations and public agencies, including public housing authorities.

(d) Maintenance of housing projects:

(1) Housing projects owned by the Secretary (or where HUD is mortgagee in possession): Requires HUD to: (A) to the greatest extent possible, maintain occupied projects in a decent, safe and sanitary condition; (B) to the greatest extent possible, maintain full occupancy in such projects; and (C) maintain such projects for rental and cooperative housing purposes.

(2) Housing projects subject to a HUD-held mortgage: Requires the owner of the project to carry out the requirements of paragraph (1) above.

(3) Housing standards: Requires HUD, in disposing of any multifamily housing project under this section, to enter into an agreement with the purchaser under which the purchaser agrees that the project will be rehabilitated, and maintained in compliance with, any standards under applicable State or local laws, rules, ordinances or regulations relating to the physical condition of the housing, and any such standards established by HUD.

(e) Required assistance: Requires HUD, in disposing of any multifamily housing property, to take separately, or in combination, one or more of the following actions—

(1) Contract with owner for project-based assistance: Provides that HUD may enter into Section 8 contracts, to the extent budget authority is available, with the owners of multifamily housing projects that are acquired by a purchaser other than HUD at foreclosure or after sale by HUD, subject to the following requirements:

(A) Subsidized or formerly subsidized projects receiving mortgage-related assistance: In the case of projects with mortgage subsidies under sections 221(d)(5) or 236 of the NHA, or section 202 of the 1959 Housing Act:

(i) requires the contract, prior to acquisition, to be sufficient to assist at least all units covered by a project-based rental assistance contract (rent supplement payments, assistance payments under section 236(f)(2) of the NHA, housing assistance under section 23 of the 1937 Housing Act, and section 8 assistance (excluding tenant-based assistance)), unless HUD acts pursuant to the exceptions listed in subparagraph (C) below;

(ii) requires the contract to provide that, when a vacancy occurs in any unit requiring project-based rental assistance under this subparagraph that is occupied by a family who is not eligible for Section 8 assistance, the owner must lease the unit to a Section 8 eligible family; and

(iii) requires HUD to ensure that any units not otherwise covered by section 8 project-based assistance under this subparagraph remain available and affordable for the remaining useful life of the project, as defined by HUD. Provides that HUD may require purchasers to establish use or rent restrictions to maintain the affordability of these units.

(B) Subsidized or formerly subsidized projects receiving rental assistance: In the case of projects not subject to subparagraph A above:

(i) requires the Section 8 contract to be sufficient to assist at least all units that are covered, or were covered immediately before foreclosure or acquisition by HUD, by a project-based rental assistance contract; and

(ii) requires the Section 8 contract to provide that when a vacancy occurs in any unit requiring project-based rental assistance, that is occupied by a family not eligible for Section 8 assistance, the owner must lease the available unit to a family that is Section 8 eligible.

(C) Exceptions: Provides that, in lieu of providing project-based assistance under subparagraphs (A) or (B) above, HUD may require certain units in unsubsidized projects to contain use restrictions providing that such units will be available to, and affordable by, very low income families for the remaining useful life of the project, as defined by HUD, if:

(i) HUD provides an increase in project-based assistance for very low-income persons for units within unsubsidized projects located within the same market area that is at least equivalent to the units otherwise required to be assisted with project-based assistance under subparagraphs (A) or (B) above; and

(ii) upon disposition, low-income tenants residing in units otherwise required to be assisted with project-based assistance under subparagraphs (A) or (B) receive section 8 tenant-based assistance.

(D) Unsubsidized projects: Requires for unsubsidized projects, notwithstanding actions taken in subparagraph (C) above, that the contract be sufficient to provide:

(i) project-based rental assistance for all units that are covered, or were covered immediately before foreclosure or acquisition, by specified Section 8 assistance (new construction and substantial rehabilitation, property disposition, project-based certificates, moderate rehabilitation), assistance under section 23 of the 1937 Act, the rent supplement program under section 101 of the Housing and Urban Development Act of 1965, and Section 8 following conversion from assistance under section 101; and

(ii) section 8 tenant-based assistance for tenants who were residing in units that were covered under the loan management set-aside program (LMSA) under section 8(b) of the 1937 Act.

(2) Annual contribution contracts for tenant-based assistance: Provides that HUD, for projects acquired by a purchaser other than HUD at foreclosure or sale by HUD, may enter into annual contribution contracts with public housing agencies to provide section 8 tenant based assistance to all low income families who, on the date the project is purchased, reside in the project and are eligible for such assistance, subject to the following requirements:

(A) Requirement of sufficient affordable housing in area: Prohibits HUD from taking such action unless it determines that there is available an adequate supply of habitable, affordable housing for very low income families, and other low income families in the area.

(B) Limitation for subsidized and formerly subsidized projects: Prohibits HUD from taking such action in connection with units in subsidized or formerly subsidized projects for more than 10 percent of the aggregate number of units in such projects disposed of annually by HUD.

(C) Provision of project-based assistance under changed circumstances: Requires HUD to provide the project-based assistance, to the extent such amounts are available, for any units that HUD has provided tenant-based assistance, under this paragraph, if, and only to the extent that, the owner demonstrates to HUD's satisfaction that, within 24 months of acquisition, that provision of project-based assistance is necessary to maintain the financial viability of the project, or that sufficient habitable, affordable housing for very low-income families and other low-income families is not available in the project's market area. Provides that assistance provided under this subparagraph is not to have a term of more than 5 years.

(3) Other Assistance:

(A) In general: Provides that HUD, as authorized under the NHA, may reduce the selling price, apply use or rent restrictions on certain units, or provide other financial assistance to the owners of multifamily housing projects on terms that ensure that:

(i) at least the units otherwise required to receive Section 8 project-based assistance listed under subparagraphs (1)(A), (B), and (D) above are available and affordable to low-income persons; and

(ii) for the remaining useful life of the project, as defined by HUD, there shall be in force such use and rent restrictions as HUD may prescribe.

(B) Very low-income tenants: Requires HUD to provide Section 8 assistance to any very low income tenants who are otherwise required to receive project-based assistance under subparagraphs (1)(A), (B), and (D) above, if the rents charged, as a result of actions taken under this paragraph, would exceed amounts payable under section 3(a) of the 1937 Act (i.e., 30% of the tenant's adjusted income).

(4) Transfer for use under other programs of the Secretary:

(A) In general: Provides that HUD may transfer a multifamily housing project—

(i) to a public housing agency for use of the project as public housing; or

(ii) to an entity eligible to own or operate housing under assisted section 202 of the Housing Act of 1959, or section 811 of the Cranston-Gonzalez National Affordable Housing Act, for use as supportive housing.

(B) Requirements of agreement: Requires an agreement providing for the transfer described in subparagraph (A) above to—

(i) contain such terms, conditions and limitations as HUD determines to be appropriate, including requirements to ensure use of the project as public housing or supportive housing, under applicable law; and

(ii) ensure that no tenant will be displaced by actions taken under this paragraph.

(f) Discretionary assistance: Authorizes HUD to take the following actions in addition to those provided for in subsection (e):

(1) Short-term loans: Authorizes HUD to provide short-term loans to facilitate the sale of projects to non-profit organizations or to public agencies, provided that: (A) authority is provided in advance in appropriations; (B) the loans are for a term of not more than 5 years; (C) HUD has obtained a commitment of permanent financing to replace the short-term loan from a lender who meets standards established by HUD; and (D) the loan terms are consistent with prevailing practices in the marketplace, or will result in no cost to the Government.

(2) Tenant-based assistance: Authorizes HUD to make available tenant-based assistance to very low-income families residing in a multifamily housing project that do not otherwise qualify for project-based assistance.

(3) Alternative uses:

(A) In general: Authorizes HUD, after providing notice and an opportunity to comment by existing tenants, to: (i) allow 10 percent of the total number of units in projects disposed of by HUD each year to be made available for non-rental or non-cooperative uses, including low-income homeownership, community space, office space for tenant or housing-related service providers or security programs, or small business uses, if such uses benefit the project

tenants; and (ii) allow 5 percent of the total number of units disposed of by HUD each year to be used to further fair housing, community development, and neighborhood revitalization goals.

(B) Displacement protection: Provides that HUD may only take the actions described in subparagraph (A) above if: (i) tenant-based assistance is made available to eligible tenants displaced due to actions under subparagraph (A) above; and (ii) HUD determines that sufficient habitable, affordable rental housing is available in the market area to allow such use of tenant-based assistance.

(g) Required assistance for certain projects: Requires HUD, in disposing of projects, to provide, to the extent such assistance is available:

(1) in market areas in which habitable, affordable rental housing for very low-income families is not sufficiently available, tenant-based or project-based assistance to tenants who are very low-income families that do not otherwise qualify for project-based assistance; and (2) project based assistance to low-income families, to the extent such assistance is necessary to maintain the financial viability of the project and is reasonably expected to maintain such viability.

(h) Rent restrictions:

(1) Authority for use in unsubsidized projects: Authorizes HUD to require certain units in unsubsidized projects to be subject to use or rent restrictions providing that the units will be available to and affordable be very low-income persons.

(2) Requirement regarding subsidized and formerly subsidized projects: Requires HUD, in disposing of any subsidized or formerly subsidized project, to require rent restrictions that provide that any unassisted very low-income family who resides in the project on the disposition date may not pay rent in excess of 30 percent of the family's income. Requires this rent restriction to be in effect from the time of the disposition of the project to the earlier of 15 years after the disposition, or the time at which the family first fails to qualify as a very low-income family.

(3) Requirement regarding unsubsidized projects: Requires HUD, in disposing of any unsubsidized multifamily housing project, to require rent restrictions that provide that any unassisted very low-income family residing in a unit in the project on the disposition date, may not pay in excess of 30% of their adjusted income for rent, from the time of the disposition of the property, to the earlier of: (A) 15 years after disposition of the property; or (B) the time the family first fails to qualify as a very low-income family—unless HUD determines that the applicability of rent restrictions under this paragraph would unreasonably impede the disposition of the project.

(4) Phase-in of rent increases: Requires HUD to phase-in equally over a three year period any rent increases, that result from the disposition of a project, for very low-income families who are pre-existing tenants of the project and who are paying less than 30 percent of their adjusted income for rent.

(5) Definition of "unassisted very low-income family": Defines, for purposes of this subsection, "unassisted very low-income family" to mean a very low income family that does not receive Section 8 project-based or tenant-based assistance.

(i) Contract requirements: Requires that contracts for project-based assistance be provided subject to the following requirements:

(1) Contract term: Requires the contract to have a term of 15 years, except that: (A) the term may be less than 15 years to the extent that HUD finds, based on rental charges and financing for the project, that the project's financial viability can be maintained; (B) HUD must require, to the extent that units receive project-based assistance for a term of less than 15 years, that rents charged to the project's tenants for such units not exceed the amount of rent payable under section 3(a) of the 1937 Act (ie., 30 percent of adjusted income of the family); and (C) the term may be less than 15 years if the assistance is provided under a contract authorized under section 6 of the HUD Demonstration Act of 1993 (ie., the Community Investment Demonstration Program), and pursuant to a disposition plan in compliance with this section.

(2) Contract rent:

(A) In general: Requires HUD to establish contract rents for project-based rental contracts, issued under this section, at levels that provide sufficient amounts for the necessary costs of rehabilitating and operating the multifamily housing project and do not exceed 144 percent of the existing fair market rentals for the market area.

(B) Up-front grants and loans: Authorizes HUD to utilize the budget authority provided for project-based Section 8 contracts issued under this section, if HUD determines this to be more cost-effective, to (i) provide up-front grants to non-profit organizations or public housing agencies for the necessary cost of rehabilitation; or (ii) pay any cost to the Government for loans made pursuant to subsection (f)(1) (ie., short term loans to non-profits and public agencies).

(j) Disposition plan:

(1) In general: Requires HUD, prior to the sale of a multifamily housing project that is HUD-owned, to develop an initial disposition plan for the project that specifies HUD's minimum terms and conditions for disposition of the project, HUD's initial acceptable sale price, and the assistance that HUD plans to make available to a prospective purchaser. Requires the initial sales price to be reasonably related to the intended use of the property after sale, any rehabilitation requirements, the rents for units that can be supported by the market, the amount of Section 8 rental assistance available for the project, and the occupancy profile of the project.

(2) Community and tenant input: Requires HUD to develop procedures: (A) to obtain appropriate and timely input into disposition plans from officials of the local government affected, the community where the project is located, and the project's tenants; and (B) to facilitate the sale of projects to existing tenant organizations with demonstrated capacity, to public and nonprofit entities which represent or are affiliated with existing tenant organizations, or to other public or nonprofit entities.

(3) Technical assistance: Authorizes HUD, to carry out procedures under paragraph (2) above, to provide technical assistance, and to use amounts available for technical assistance in specified existing law. Permits recipients of technical assistance funding to

make available technical assistance to the extent of such funding, notwithstanding the source of the funding.

(k) Right of first refusal for local and State government agencies:

(1) Notification of acquisition of title: Requires HUD, 30 days after acquiring title to a multifamily housing project, to notify the local government (which includes the public housing agency) and the designated State agency, where the project is located, of the acquisition.

(2) Right of first refusal: Provides that HUD, for a period of 45 days from the time its acquired title to a project, may offer to sell, and may sell, the project to the local government or State agency.

(3) Expression of interest: Provides that the local government or State agency may submit to HUD a preliminary expression of interest in a project not later than 45 days after receiving the notification of acquisition by HUD of the project described subparagraph (1) above. Provides that HUD may require substantiation of this expression of interest.

(4) Timely expression of interest: Provides that if a timely expression of interest, and substantiation of such interest, if requested, is made by the local government or State agency, HUD must, upon approval of a disposition plan: (A) notify the local government and State agency of the plan; and (B) for 90 days after such notification, provide that only the local government or State agency may make an offer to purchase the project.

(5) Failure to timely express interest: Provides that if the local government or State agency does not timely express and, if requested, substantiate their interest in a project, HUD may offer the project for sale to any interested person or entity upon approval of the disposition plan.

(6) Acceptance of offers: Provides that if the local government or State agency expresses and, if requested, substantiates interest in a project, HUD must accept an offer for the project, made by such entity during the 90 day period referred in subparagraph (4)(B) above, that complies with the disposition plan of the project. Provides that HUD may accept an offer that does not comply with the disposition plan, if it determines that the offer will further the goals of this section by actions that include extending the duration of low-income affordability restrictions, or enhancing the long-term affordability for low-income persons. Authorizes HUD to reduce the initial sales price in exchange for the extension of low-income affordability restrictions, and to facilitate affordable rents.

(7) Failure to sell to local or State Government agency: Provides that if HUD and the local government or State agency cannot reach agreement on the offer to purchase within the 90 day period, HUD may offer the project for sale to the general public.

(8) Purchase by unit of general local government or designated State agency: Provides that a local government or State agency may purchase a subsidized or formerly subsidized project.

(9) Applicability: Provides that this section is to apply to projects acquired on or after the effective date of this subsection. Provides that HUD, with respect to projects acquired before such effective date, may apply existing law, or, under certain circumstances, the requirements in this section.

(10) Transfer by local or State government agency purchasers: Requires HUD to permit a local government or State agency to transfer projects acquired, under the right of first refusal under this subsection, to a private entity, as long as the local government or State agency stated their intention to do so in their offer to purchase.

(1) Displacement of tenants and relocation assistance:

(1) In general: Requires HUD to identify tenants who will be displaced by the disposition of, or repairs to, a multifamily housing project that is HUD-owned, or for which HUD is mortgagee in possession, and to notify those tenants of their pending displacement and of available relocation assistance. Provides that where a project is not HUD owned, and HUD is not mortgagee in possession, HUD is to require the owner of the project to carryout the requirements of this paragraph.

(2) Rights of displaced tenants: Requires HUD to ensure, for any displaced tenant, the right: (A) to return, whenever possible, to a repaired unit; (b) to occupy a unit in another HUD-owned project; (C) obtain housing assistance under the 1937 Act; or (D) to receive any other available relocation assistance HUD determines to be appropriate.

(m) Mortgage and project sales:

(1) In general: Prohibits HUD from approving a sale of any loan or mortgage held by HUD (including GNMA), on any subsidized project or formerly subsidized project, unless the sale is made a part of a transaction that ensures that the project will continue to provide rental housing on terms at least as advantageous to existing and future tenants as was required by the original subsidy program under which the loan or mortgage was made or insured.

(2) Sale of certain projects: Prohibits HUD from approving the sale of any subsidized project: (A) that is subject to a HUD-held mortgage; or (B) if the transaction involves an additional HUD subsidy, or a recasting of the mortgage, unless the sale is part of a transaction that will ensure the project's continued operation as rental housing on terms at least as advantageous to existing and future tenants as under the original subsidy program.

(3) Mortgage sales to State and local governments: Authorizes HUD, notwithstanding existing law, to negotiate sales of subsidized or formerly subsidized mortgages held by HUD, without the competitive selection of purchasers or intermediaries, to local governments and State agencies, or groups of investors that include a unit of local government or State agency, if negotiations are conducted with such agencies, except that:

(A) the purchasing agency or local government or State agency must agree to act as mortgagee or owner of a beneficial interest, consistent with maintaining projects for occupancy by the general tenant group intended to be served by the applicable mortgage program; and

(B) the sales prices for such mortgages shall be, as determined by HUD, the best prices that may be obtained for such mortgages from a local government or State agency, consistent with the retention of the projects for original use.

(4) Sale of mortgages covering unsubsidized projects: Authorizes HUD to sell mortgages held on unsubsidized projects on such terms and conditions as HUD may prescribe.

(n) Report to Congress: Requires HUD to submit a report to Congress, not later than June 1 of each year, describing the status of multifamily housing projects owned or subject to HUD-held mortgages.

Clarification of Federal preferences: Amends section 6(c)(4)(A)(i) and section 8(d)(1)(A)(i) of the 1937 Act, to clarify, as a preference for public housing tenancy and for Section 8 rental assistance, displacement because of disposition of a multifamily housing project.

Definition of owner: Amends section 8(f)(1) of the 1937 Act to add "an agency of the Federal Government" to the definition of "owner" under that section.

Amendment to National Housing Act: Establishes a new section 541 of Title V of the National Housing Act to provide that if HUD is requested to accept assignment of a mortgage insured by HUD that covers a multifamily housing project, and HUD determines that partial payment would be less costly than other reasonable alternatives for maintaining the low-income character of the project, HUD may request the mortgagee, in lieu of assignment, to: (1) accept partial payment of the claim under the mortgage insurance contract; and (2) recast the mortgage under terms and conditions determined by HUD. Requires the mortgagor, as a condition to a partial claim payment, to agree to repay HUD the amount of such payment, and this obligation must be secured by a second mortgage on the property on terms and conditions determined by HUD.

Effective date: Requires HUD to issue interim regulations to implement the multifamily property disposition sections of this Act, not later than 90 days after enactment of this Act. Provides that the interim regulations shall take effect upon issuance and invite public comment on the interim regulations. Requires HUD to issue final regulations, after opportunity for public comment, not later than 12 months after the issuance of the interim regulations.

SEC. 6002. SECTION 235 MORTGAGE REFINANCING

Amends section 235(r) of the National Housing Act (the refinancing program for section 235 mortgages) to authorize HUD to do the following:

(1) Amends section 235(r)(2)(C) to permit HUD to insure a section 235 mortgage that includes an amount covering the cost of refinancing that mortgage;

(2) Amends section 235(r)(4) to extend HUD's authority to provide incentives to mortgagees, in addition to incentives already permitted for mortgagors under current law, to refinance section 235 mortgages; and

(3) Amends section 235(r)(5) to authorize HUD to use funds recaptured from assistance payments contracts relating to the refinanced mortgages to pay mortgagors and mortgagees for refinancing costs and incentives.

**SEC. 6003. USE OF EMERGENCY ASSISTANCE FUNDS FOR RESIDENCY IN
MULTIFAMILY HOUSING DISPOSITION PROJECTS**

Amends section 203(f) of the Housing and Community Development Amendments of 1978, as amended by this Act, to authorize HUD to make arrangements with State agencies and local governments of States receiving emergency assistance under part A of title IV of the Social Security Act, to provide this assistance to eligible families who reside in multifamily housing projects.

**SEC. 6004. ADDITIONAL EMPLOYEES TO FACILITATE DISPOSITION OF
FHA INVENTORY PROPERTIES**

Permits HUD to use amounts otherwise available during fiscal years 1993, 1994, and 1995 in various funds of the Federal Housing Administration for non-overhead expenses, for temporary employees employed to manage, service, and dispose of HUD's inventory of multifamily and single family properties. Prohibits HUD from hiring more than 400 temporary employees, at any one time, using the amounts made available by this section. Prohibits employees hired under this section from being employed in a temporary position provided for by this section, for more than a two year period. Provides that temporary employees employed under this section are not to be considered for purposes of any personnel ceiling applicable to HUD, or any personnel ceiling applicable to temporary employees of the Federal government.

SEC. 6005. HUD STREAMLINING

Requires HUD to carry out the recommendation of the Report of the National Performance Review, issued on September 7, 1993, that HUD streamline its headquarters, regional and field office structure, and consolidate and reduce its size, without regard to the requirements of section 7(p) of the Department of Housing and Urban Development Act.

STATEMENTS MADE IN ACCORDANCE WITH HOUSE RULES

In accordance with clauses 2(1)(2) (B), 2(1)(3) and 2(1)(4) of rule XI of the Rules of the House of Representatives, the following statements are made:

COMMITTEE VOTE

(Rule IX, clause 2(1)(2)(B))

The Committee on Banking, Finance and Urban Affairs, with a quorum present, ordered H.R. 3400, as amended, favorably reported by a voice vote at its mark-up on November 10, 1993.

OVERSIGHT FINDINGS AND RECOMMENDATIONS

(Rule XI, clauses 2(1)(3) (A) and (D), and rule X, clauses 2(b) (1) and (2) and 4(c)(2))

The Subcommittee on Housing and Community Development held hearings in this session of Congress on issues relating to matters within the Subcommittee's jurisdiction that were included in H.R. 3400, as amended. These hearings were held as follows:

May 12, 1993: General Accounting Office Findings Regarding Department of Housing and Urban Development (HUD) Multi-family Property Disposition;

June 23, 1993: 1993 HUD Inspector General's Semiannual Report to Congress;

October 29, 1993: Staffing Needs of Selected HUD Divisions; and

November 3, 1993: Selected Issues on the Section 8 Housing Assistance Payments Program.

Accordingly, the Committee recommends that the House pass H.R. 3400, as amended. The bill addresses the needs, and accomplishes the objectives, reflected in the Subcommittee's hearings.

The Committee states that no findings or recommendations on oversight activity conducted in accordance with clause 4(c)(2), Rule X of the Rules of the House of Representatives, have been submitted by the Committee on Government Operations for inclusion in the report.

ADVISORY COMMITTEE STATEMENT

(Section 5(b) of the Federal Advisory Committee Act)

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act are created by this legislation.

INFLATIONARY IMPACT STATEMENT

(Rule XI, clause 2(l)(4))

The Committee finds that the portions of H.R. 3400, as amended, marked-up by the Committee on November 10, 1993, will not have any impact on inflationary trends in the national economy.

COST ESTIMATE OF THE CONGRESSIONAL BUDGET OFFICE PURSUANT TO SECTION 403 OF THE CONGRESSIONAL BUDGET ACT OF 1974

(Rule XI, clause 2(l)(3)(C))

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 15, 1993.

Hon. HENRY B. GONZALEZ,
*Chairman, Committee on Banking, Finance and Urban Affairs,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed the amendment to title VI of H.R. 3400, the Government Reform and Savings Act of 1993, as ordered reported by the House Committee on Banking, Finance and Urban Affairs, on November 12, 1993. We estimate that the committee's amendment would result in an increase in direct spending of \$616 million over the 1994-1998 period, relative to H.R. 3400 as introduced. Because H.R. 3400 would affect direct spending, pay-as-you-go procedures would apply to this bill.

The committee's amendment would affect the budgetary impact of H.R. 3400 in two ways. First, the amendment would not include the 1-year freeze on section 8 new construction contract rents that

is part of the bill as introduced. As a result, we estimate that the amendment would reduce savings in direct spending by \$139 million in 1995 and by \$576 million for the 1994–1998 period.

Second, section 6004 would allow the Department of Housing and Urban Development (HUD) to hire up to 400 temporary employees for two years to support property disposition activities. CBO estimates that it would cost approximately \$40 million over fiscal years 1994–1995 to support these temporary employees. Because the amendment would allow these costs to be paid directly by the Federal Housing Administration (FHA) insurance funds without appropriation action, these payments would be considered direct spending.

The budgetary impact of the other provisions of title VI would not be affected by the committee's amendment. Those provisions would provide for accelerated disposition of multifamily property owned by HUD and authority for HUD to offer refinancing incentives for section 235 mortgages. Title VI also would direct HUD to consolidate and reduce its size in accordance with the Report of the National Performance Review.

The following table summarizes CBO's estimate of the budgetary impact of the committee's amendment, relative to H.R. 3400 as introduced.

CBO ESTIMATE OF CHANGES IN DIRECT SPENDING—RELATIVE TO H.R. 3400, AS INTRODUCED
[By fiscal year, in millions of dollars]

| | 1994 | 1995 | 1996 | 1997 | 1998 |
|----------------------------------|------|------|------|------|------|
| Subtitle E—Section 8 rents: | | | | | |
| Estimated budget authority | 0 | 139 | 142 | 146 | 149 |
| Estimated outlays | 0 | 139 | 142 | 146 | 149 |
| Section 6004—Temporary hires: | | | | | |
| Estimated budget authority | 20 | 20 | 0 | 0 | 0 |
| Estimated outlays | 15 | 20 | 5 | 0 | 0 |
| Total direct spending: | | | | | |
| Estimated budget authority | 20 | 159 | 142 | 146 | 149 |
| Estimated outlays | 15 | 159 | 147 | 146 | 149 |

CBO estimates that enactment of title VI, as amended, would reduce direct spending outlays by \$406 million over the 1994–1998 period. Spending subject to appropriations would decline by \$168 million over the same period.

Enactment of this legislation would not affect the budgets of state and local governments.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Suzanne Mehlman and Brent Shipp.

Sincerely,

JAMES L. BLUM
(For Robert D. Reischauer, Director.)

EXPLANATION

The Committee bill contains amendments to Title VI of H.R. 3400, the Government Reform and Savings Act of 1993. Title VI is the portion of the bill that is within the jurisdiction of the Commit-

tee on Banking, Finance and Urban Affairs which relates to the Department of Housing and Urban Development.

The Committee is reporting this bill in compliance with the referral date, November 15, 1993, on the bill given to the Committee by the House leadership. The Committee made a decision to separately report out the provisions of H.R. 3400 under its jurisdiction in order to act on the merits of each of the provisions originally contained in H.R. 3400 as introduced. In some cases, as noted below, the Committee did not include provisions from H.R. 3400, as introduced, because of the complexity of the provisions and the concerns raised during hearings on these provisions.

The Committee is concerned that in reporting out Title VI of H.R. 3400 the Committee was placed under severe time constraints to address several very complicated issues. However, the importance of these issues required the Committee to perform its responsibility carefully and thoroughly.

H.R. 3400 was initiated by the Administration's Office of Management and Budget as a second deficit reduction bill, to provide budget savings and to otherwise streamline government operations as proposed in the Vice President's National Performance Review. The major provisions included in the Committee bill will provide approximately \$800 million in budget savings over a five year period.

The Committee notes that H.R. 3400, as introduced, originally contained five provisions relating to HUD, four of which were estimated by the Administration to yield approximately \$1.742 billion in budget savings. Specifically, these five provisions included multifamily property disposition, the refinancing of section 235 mortgages, freezing contract rents for section 8 new construction and substantial rehabilitation projects, the streamlining of HUD staff, and the merger of the Section 8 Certificate and Voucher programs.

The Committee notes, however, that it is questionable whether these original provisions would actually have yielded the budget savings that were estimated. The Committee also notes the fact that hearings recently held by the Banking Committee's Subcommittee on Housing and Community Development revealed serious problems with three of the five OMB proposals contained in H.R. 3400, as introduced.

First, the Committee believes that the proposal to freeze Section 8 contract rents for new construction and substantial rehabilitation presents clear constitutional problems, which has been confirmed in a memorandum to the Committee from the American Law Division of the Congressional Research Service, which reviewed the proposal. This memorandum is attached below.

Second, many on the Committee believe that the proposal to reduce the HUD staff overlooks the fact that HUD, over the last decade, has already suffered major staff cut backs, from a total staff of 17,345 in fiscal year 1980 to 13,275 today—which HUD's own Inspector General has testified has had a detrimental impact on the effectiveness of HUD programs. Also, recent House Banking Committee's Housing Subcommittee hearings have demonstrated the severe impact that such staffing reduction proposals will have on the Department in administering its programs. The Committee believes that despite the fact that this HUD streamline provision is

included in the bill it may have significant impact on the daily operation of the Department. The Committee included this provision on a vote of 26 to 23.

Finally, the Committee believes that the Administration's Section 8 merger proposal appears to have significant deleterious implications for low-income tenants, by eliminating the current law provision protecting them from paying more than 30 percent of their income for rent. Also, the Committee believes that the merger of these programs is quite complex and is better left for consideration for the housing reauthorization bill next year.

The Committee believes that the major provisions included in the Committee bill, two of which were in the Administration's original proposal, will significantly improve the operation and cost-effectiveness of several important HUD programs.

These provisions include: (1) revising the multifamily property disposition program; (2) facilitating the refinancing of section 235 mortgages; (3) using emergency assistance funds for housing the homeless in multifamily housing disposition projects; (4) authorizing HUD to hire temporary employees from funds already authorized for the FHA to manage, service, and facilitate the disposition of its multifamily and single family property inventory; and (5) streamlining HUD staff.

MULTIFAMILY PROPERTY DISPOSITION

The Committee bill restates and reforms current law governing the multifamily property disposition program, Section 203 of the Housing and Community Development Amendments of 1978, as amended. The Committee intends that these reforms speed up the property disposition process while preserving as many units of subsidized rental housing as possible and continuing project based assistance to units and tenants already receiving assistance. The Committee understands that these changes to existing law will save an estimated \$400 million in budget authority. The Committee expects that the changes represent a good first step toward addressing what has consistently been identified as the major problem facing the new HUD administration. They strike a necessary and delicate balance among the need to preserve affordable housing for very low income families; the need to accelerate the disposition of the property now in the inventory and the need to reduce the costs, both holding and long term rental assistance, of property disposition.

The Committee is aware that the operative law—significantly tightened in the 1987 and 1988 Housing Acts—now requires HUD to sell subsidized projects with 100 percent, 15-year project based section 8 assistance or provide purchase money mortgages, discount the selling price, or provide other unspecified assistance to assure affordability for not less than 15 years. However, the Committee recognizes that the reality of the property disposition program to this point is that only the 15 year section 8 certificates for all the units have been relied upon to ensure that the goals of the property disposition program—to provide long term affordability upon disposition—are met.

The Committee notes that insufficient budget authority has been available to provide section 8 assistance for the property disposi-

tion program. In fiscal year 1993, only \$93 million was appropriated for property disposition section 8 assistance, which would cover not even 1000 units of the estimated 54,647 units that would be covered under current law. The Committee believes that the lack of budget authority has been the primary cause of what has now been termed "property disposition gridlock."

Further the Committee is aware that since the 1987 and 1988 amendments were enacted and in the absence of sufficient funding for the production of affordable housing, many low income housing advocates have looked upon the property disposition program as a means to expand the supply of housing affordable to very low income families. The Committee also recognizes that some in the low income housing advocacy community are concerned that any changes to current law will permit HUD to dump projects on the markets without regard to the impact of tenants currently residing in the properties. While the Committee sympathizes with those arguments, the Committee is concerned that to do nothing will forestall disposition needlessly, condemn very low income tenants to live in apartments in deplorable conditions, and the gridlock will continue.

As a consequence of forestalling property disposition, the Committee acknowledges that, according to the General Accounting Office (GAO), each year, properties with HUD held mortgages and properties that now are HUD owned cost the Federal Housing Administration General Insurance Fund more than \$250 million in holding costs. This amount covers rental assistance, rehabilitation costs and management costs in excess of the amounts that can be generated from rental income from the tenants residing in the properties. The Committee, regrettably, is aware that HUD as property manager or landlord is both inefficient and inadequate by their own estimation and that the GAO, the tenants, communities in which the properties are located, and the media.

As a result of disposition gridlock where projects can not be sold for lack of section 8 budget authority and where HUD continues to serve as a poor landlord, the Committee intends that the reforms provide section 8 assistance and alternative strategies, that is approaches other than providing 15 year project based assistance. The alternative strategies are expected to preserve the universe of units that would no longer be covered by project based assistance and to accelerate disposition. While the Committee continues to be concerned about providing too much discretion to the Department, the alternative approaches included in the reforms provide more flexibility for HUD to dispose of properties in a manner which protects very low income residents against burdensome rent increases and displacement without jeopardizing HUD's ability to dispose of the property.

The Committee believes that this is the key issue that the Committee considered in redrafting the property disposition program. At the same time that the Committee was concerned about protecting current very low income tenants, the Committee was concerned with accelerating property disposition at reduced costs to the federal government. The Committee intends that the restatement of the multifamily property disposition program maintain that balance.

GOALS

The redraft of section 203 articulates broad goals for the management and disposition of property that is owned by the Secretary or subject to a mortgage held by the Secretary. The Committee expects that furthering these interrelated goals in the least costly fashion to the Federal government can be achieved by carefully implementing the requirements and the alternatives of the property disposition program. However, the Committee recognizes that in certain instances HUD necessarily would have to balance among the sometimes competing goals in order to further the purposes of the property disposition program.

MANAGEMENT OR DISPOSITION OF PROPERTY

In authorizing HUD to provide for the disposition of property that is owned by the Secretary on a negotiated, competitive, or other basis, the Committee adopts current law with the following important clarifications: (1) requiring that the disposition be considered within the context of the local market and (2) defining sound financial and physical management program required of the purchaser as one that will enable the project to meet operating and maintenance expenses.

The same new definition of sound financial and physical management that will be required of any management agent selected to manage HUD owned property or property for which HUD is mortgagee in possession applies. Further, the Committee explicitly provides that public agencies, including public housing agencies and nonprofit organizations are eligible as management agents. The Committee expects that where such entities can provide quality and cost effective management HUD should make every effort to contract with such agencies.

MAINTENANCE OF HOUSING PROJECTS

In addressing the maintenance of projects under the property disposition program, the Committee intends that HUD not only be required to assure that properties are maintained prior to disposition, but to assure that purchasers rehabilitate and maintain properties after disposition. The Committee bill provides that HUD require purchasers to meet clear and binding rehabilitation and maintenance standards under applicable state or local laws, rules, or ordinances or HUD standards adequate to ensure decent, safe and sanitary housing. The Committee intends that the purchaser must meet these standards for the applicable restricted use period and that such standards and agreements be included in the disposition plan and sale agreement.

REQUIRED ASSISTANCE

The Committee recognizes that the required assistance for projects under the property disposition program included in the reforms represents the major change in federal policy. The Committee intends that the proposed reforms reduce the universe of units that by current law must be covered by long term project based rental assistance and reduce federal costs. The provisions require 15 year project based section 8 assistance, depending on the term

that is required to maintain long term affordability upon disposition, only to units that are under rental assistance contracts in both subsidized and unsubsidized buildings.

Under current law, if properties were defined as subsidized, section 8 rental assistance was required for every unit in the project upon disposition. In unsubsidized projects, 15 year section 8 assistance was required for units that had section 8 or other rental assistance and for those tenants who were eligible to receive section 8 assistance.

Definitions.—Under the Committee provisions the definition of subsidized and unsubsidized projects remain the same as under current law, except that section 312 loans are no longer considered subsidized mortgages.

The Committee recognizes that many of the section 312 rehabilitation loans were provided to projects in “gentrifying” neighborhoods and provide apartments for many families who are defined as moderate income rather than very low or low income. However, the Committee expects that to the extent that HUD can protect existing very low income tenants from burdensome rent increases or displacement upon disposition, HUD will adopt such a disposition plan.

Under the redraft of current law, subsidized mortgages or formerly subsidized mortgages are those under section 221(d)(5) or section 236 of the National Housing Act, or section 202 of the Housing Act of 1959 with rental assistance under section 8, rent supplement, section 23, or section 236 rental assistance, for more than 50 percent of the units. Subsidized or formerly subsidized projects are those receiving rental assistance listed above regardless of the mortgage. Unsubsidized projects are those with rental assistance for fewer than 50 percent of the units.

Required assistance for subsidized projects.—The Committee bill requires that 15 year project based assistance be provided only to those units covered by rental assistance contracts and requires that units covered by rental assistance contracts must be occupied by section 8 eligible tenants upon turnover. For those projects with subsidized mortgages as well as rental assistance, the Committee bill requires, for the first time, that those units not covered by project based assistance shall remain affordable for the remaining useful life of the project. Further, HUD may require that rent restrictions or caps be put in place for those units.

The Committee intends that the rent restrictions, pegged to 30 percent of 50 percent of area median income for very low income families, and 30 percent of 80 percent area median income for low income families, provide sufficient protection for tenants residing in properties under the property disposition program at the same time as it provides HUD with the flexibility it needs to dispose of the properties. The Committee is aware that in many market areas, rents even after disposition and rehabilitation, will be affordable to very low and low income tenants without the deep subsidy of 15 year section 8 assistance. The Committee expects, however, that the extent to which rent restrictions will be used to preserve units as affordable will depend on the extent that the disposition plan provides for a deeply discounted purchase price. Further, the Committee intends that in balancing competing interests in the disposi-

tion of properties, HUD establish market-based sales prices in order to preserve these projects for continued low-income use.

The Committee recognizes that in addition to preserving affordable housing, the property disposition program could encourage neighborhood revitalization and promote mixed income developments in the same market area, particularly in cities like Dallas, Texas, New Orleans, Louisiana, Atlanta, Georgia, Chicago, Illinois, and Boston, Massachusetts, with a number of properties subject to these provisions. To that end, the Committee bill provides an exception to providing project based assistance—that an equivalent number of project based units can be provided in an unsubsidized project in the same market area as would have been provided in a subsidized project to foster mixed income projects. This exception also requires that the tenants who would have received project based assistance must receive tenant based assistance.

Unsubsidized projects.—As for subsidized projects and in recognition of the need to limit the requirement for project based assistance, the committee bill requires that project based assistance be made available to all units with rental assistance, except that tenant based assistance can be provided for loan management set aside section 8 units. However, the Committee is concerned that tenant based assistance as a replacement for project based assistance, even with additional financing that will come with the disposition, will not work in all cases. Therefore, the Committee bill provides that within a 24 month period after disposition, if the owner can demonstrate that for reasons outside his control and to maintain the project viability, 5 year project based assistance to the extent necessary and available shall be provided.

If such assistance is necessary, in implementing this exception provision, the Committee intends that HUD provide project based assistance only for as many units as are necessary to prevent projects from defaulting a second time and to maintain a project's viability. The Committee expects that the disposition plan for each project should be sound enough so that such project based assistance will not be necessary, except in rare instances. However, the Committee is aware that state housing finance agencies may provide much of the financing for acquisition and rehabilitation of inventory property and recognizes that the availability of this assistance under carefully circumscribed conditions is a necessary backstop.

In lieu of tenant based assistance in tight markets, where there is insufficient affordable, habitable housing, the Committee bill requires that 5 year project based assistance be provided to the extent such assistance is available. The Committee intends that project based assistance for tenants who remain in the property be provided only where tenants can not use tenant based assistance to locate other housing within the same market.

Tenant based assistance.—The Committee statutory language provides that HUD may provide tenant based assistance administered by public housing agencies for not more than 10% of the aggregate number of units disposed of in any one year in subsidized or formerly subsidized properties. The Committee is aware that this limits HUD's flexibility; however, the Committee is concerned that particularly very low income tenants are protected from dis-

placement to the extent possible. The Committee recognizes that when tenant based assistance is used, it may be necessary in certain markets to extend the time frame for the certificate so that families will have sufficient time to locate another unit.

Market tests.—The use of tenant based assistance is predicated on the availability of affordable habitable housing. The Committee recognizes that where such market conditions exist, such markets are known as soft markets. Where there is insufficient affordable habitable housing, or in tight markets, the Committee bill provides for the use of project based, not tenant based, assistance. The Committee intends that the definition of so called soft or tight markets be carefully considered and specified in regulation. The Committee is aware that vacancy rates, turnover rates, construction starts, demolition, absorption rates for section 8 vouchers and certificates, and waiting lists as well as rents contribute to the definition of a soft or tight market.

With regard to rents, the Committee intends that any market test or study assess the availability of affordable housing for very low income and low income families in compliance with the definition of affordable housing specified in the bill. If very low income tenants are to receive tenant based assistance, then it must be clear that housing which very low income tenants can afford with rents equal to 30 percent of 50 percent of median income is available. The same can be said for low income tenants. The Committee expects that any market assessments cover an entire market area as defined under the section 8 program, not just neighborhoods or blocks.

Other assistance.—The Committee bill provides that HUD may also reduce the selling price, provide rent restrictions on certain units or provide other financial assistance in order that at least the units that would have been required to receive project based section 8 assistance are available and affordable for the remaining useful life of the project. The Committee intends that this other assistance be used in conjunction with the required project based assistance where feasible. Under current law, although HUD has the option to combine various forms of assistance as disposition tools, HUD relies primarily on section 8 assistance which has not been available in sufficient amounts. By specifying this other assistance, particularly discounted sales and rent restrictions, the Committee urges HUD to develop disposition plans which combine options.

Further, the Committee bill provides that for any very low income family who is otherwise required to receive section 8 assistance but for whom rent restrictions are used to dispose of the housing, "gap" section 8 assistance shall be available to make up the difference between 30 percent of the family's income and the restricted rent. The Committee expects that this assistance will reduce the funds needed for section 8 assistance at the same time that it will protect very low income residents from burdensome rents.

Transfer for use under public housing and supportive housing.—The Committee bill provides that housing subject to disposition may be transferred to public housing agencies and eligible sponsors of supportive housing projects for the elderly and persons with disabilities. The Committee expects that such transfers will be at little

or no cost so that PHAs and nonprofits will be able to provide housing meeting the same purposes as those funds under the conventional public housing and supportive housing programs. The Committee recognizes that there is no expectation that PHAs or nonprofit sponsors be required to seek public housing development money or capital grants under the supportive housing programs to acquire and rehabilitate disposition property.

DISCRETIONARY ASSISTANCE

The Committee recognizes that not only has insufficient 15 year project based assistance contributed to disposition gridlock, but so have the lack of financing and credit enhancements for disposition and rehabilitation and the requirement to preserve all the housing contributed to disposition gridlock. The Committee bill provides discretionary assistance, including short term bridge loans, up front grants and loans, and the flexibility to dispose of a limited number of units as other than multifamily housing.

The Committee acknowledges that permanent financing to carry out the acquisition and rehabilitation of properties subject to the property disposition program will be provided under programs such as tax exempt financing issued by state and local housing finance authorities, low interest loans, HOME funds, Community Development Block Grant funds, and financing assistance through the Federal Home Loan Banks, Federal National Mortgage Association and the Federal Housing Loan Mortgage Corporation. The Committee further notes that it has debated OMB concerning the availability of FHA insurance for the refinancing of inventory properties upon disposition to no avail. The Committee continues to believe that FHA insurance on newly underwritten financing structures presents little or no risk to the FHA GI fund and that such insurance would provide critical credit enhancement to reduce the costs of disposition and to lower rents for very low and low income families.

Bridge loans.—The short term bridge loans, available only to public agencies and nonprofits, provide a form of seller financing so critical for the disposition of many of these properties. The Committee expects that these loans will provide financing to get the disposition and rehabilitation started prior to securing permanent financing. The loans are limited to five years and must be repaid in full from the proceeds of the permanent financing.

Grants and loans.—The Committee intends that the up front grants and loans be available to write down the cost of the disposition and rehabilitation in cases where public agencies and nonprofits purchase disposition properties. Further the Committee intends that the use of section 8 contract authority for this purpose should be cost effective and in the long run reduce the need for long term section 8 rental assistance. The Committee expects that the write down will translate into lower rents. The Committee also expects to monitor closely the use of the section 8 contract authority for this purpose to determine if such use helps or hinders the disposition process and if alternative funding sources, if available, may be needed.

Alternative uses.—The Committee bill includes provisions for disposing of units for other than multifamily housing in limited circumstances. The bill gives HUD the flexibility after careful con-

sultation with local governments and affected communities and tenants to dispose of (1) 10 percent of the total units disposed of in any one fiscal year for homeownership, community space, services, office space, or small business uses as long as the non-rental uses benefit the tenants; and (2) 5 percent of the total units disposed of in any one fiscal year to further fair housing, community development, and neighborhood revitalization.

The Committee expects that this authority will be used only if the plans are developed in conjunction with city and neighborhood interests, including those expressed in the Comprehensive Housing Affordability Strategy. The Committee is aware that demolition also may be included in disposition plans to achieve disposition goals, including reducing density and costs where the housing can not be rehabilitated and preserved in a cost effective manner. However, the Committee continues to be concerned that the disposition program should preserve as affordable housing as many units as possible.

Further the Committee intends that these alternative uses are implemented primarily where there are vacant units. The Committee is concerned that the alternative uses not cause unnecessary displacement. Therefore the Committee bill provides for tenant based assistance for displaced residents eligible for such assistance and provides that alternative uses can only be implemented in soft markets that can reasonably absorb such tenant based assistance. The Committee also intends that HUD continue to comply with its duties under all fair housing and civil rights laws when implementing these exceptions.

Tenant based assistance.—The Committee bill also provides HUD with the discretionary authority to provide tenant based assistance to those very low income families not otherwise qualified to receive project based assistance. The Committee intends that this authority be used in order to minimize the impact of the disposition on very low income families who can no longer afford to reside in projects upon disposition.

Restricted rents.—The Committee bill also authorizes HUD to require certain units in unsubsidized projects to be subject to rent restrictions or caps within the definition of affordable rents in order to provide protections for very low income tenants and to further the goal of preservation as affordable housing. The Committee expects that such restrictions for those not receiving section 8 assistance would be made a part of the disposition plan unless the property could not be sold with such restrictions in place.

REQUIRED ASSISTANCE FOR CERTAIN PROJECTS

Notwithstanding the required assistance depending on the type of project or the discretionary assistance, the Committee is aware that there may be projects which can only be disposed of with project based assistance for some of the units. In those instances, to the extent that assistance is available, HUD is required to provide (1) in soft markets, tenant based or project based assistance to very low income tenants not otherwise qualified for project based assistance and (2) project based assistance for the number of units that are required to establish and maintain the financial viability of the project.

The Committee expects, as with projects with loan management set aside units, that the disposition plan will include sufficient assistance to dispose of it, to preserve units, if appropriate, to protect very low income tenants in tight markets, to the extent possible, and to prevent future defaults. The Committee does not intend that this requirement return the property disposition program to current law nor that it prevent the Department from accelerating disposition. The Committee will monitor closely use of this required assistance.

RENT RESTRICTIONS OR PROTECTIONS

In developing the property disposition program reforms, the Committee is concerned that tenant protections be maintained to the extent possible without jeopardizing the disposition of inventory property. The Committee bill provides that very low income families in subsidized or formerly subsidized housing should pay no more than 30 percent of their adjusted income for rent. The Committee intends that the disposition plan include this requirement and that it remain in place for the earlier of 15 years or until such time as the family income exceeds the very low income limit of 50 percent of median income. The Committee expects that many of the very low income tenants in subsidized buildings will either receive tenant or project based section 8 assistance or be subject to rent caps and gap section 8 assistance. However in the event that there is neither section 8 or gap section 8 assistance, the Committee intends that very low income tenants are protected from paying exorbitant rents in excess of 30% of adjusted family income or from displacement.

The Committee bill also includes the same protection against burdensome rents for very low income tenants in unsubsidized properties upon disposition unless such restriction unreasonably impedes or jeopardizes disposition. The committee expects HUD to provide a carefully considered and detailed definition of unreasonable impediments to disposition in regulation including the lack of purchasers, inability to secure financing, inadequate rent stream, and economic feasibility. Further, the Committee expects that the public comment period will yield additional parameters for determining the definition of "unreasonable impede."

Rent increases.—The Committee is aware that the disposition and rehabilitation of many of these properties may require some rent increases to meet debt service, particularly for very low income tenants. While the Committee acknowledges that tenants will shoulder the cost of at least a portion of rehabilitation costs through increased rents, the Committee is concerned that any rent increases resulting from disposition and rehabilitation not be burdensome. Thus, the Committee bill provides that very low income families paying less than 30 percent of adjusted income should have rent increases phased in over a three year period so that the families are paying at least 30 percent of adjusted income as rent. The Committee also expects that in determining the sales price of disposition property, HUD will consider both the rehabilitation costs and future rent burdens.

CONTRACT REQUIREMENTS

Contract term.—Although the Committee is aware that the term of the section 8 contract is a determining factor in the cost of the property disposition program, the Committee intends that the term of the project based section 8 contract will be 15 years, unless the project rents and financing structure as affordable housing can be supported by a shorter term or the assistance is provided under the new Community Investment Demonstration Program which was enacted earlier this year. The bill further requires that rents charged to tenants not exceed amounts payable under the section 8 program or 30% of adjusted income for the term of the contract, regardless of the term of the contract.

The Committee is aware that contract terms could be reduced if there were alternative credit enhancements, including FHA insurance, which would reduce interest rates and financing costs, thereby decreasing rents. Until such time as credit enhancements are available readily, the 15 year contract term provides the necessary security for financing.

Contract rent.—The Committee intends that contract rents are sufficient to cover the real cost of acquiring, rehabilitating, and operating multifamily property, including adequate reserves and profits. Therefore the Committee expects that HUD in establishing contract rents bases the rents on actual costs and valid estimates, rather than arbitrarily "low balling" costs in order to save contract authority. Setting contract rents represents HUD's underwriting role. The Committee is aware that a contributing factor to the growth of the property disposition inventory was poor underwriting. Therefore the Committee expects HUD to work closely with the purchasers and lenders in establishing accurate contract rent levels.

DISPOSITION PLAN

The Committee bill, like current law, requires that prior to sale of inventory property, HUD develops an initial disposition plan that identifies the sales price and the assistance HUD will make available to the purchaser. The Committee is aware that guidance in setting the sales price was absent and that return to the FHA seemed more important than setting a sales price low enough to assist in preserving affordable housing. The Committee bill, therefore, provides that the sales price should reflect the intended use after sale, the rehabilitation needs, the amount of section 8 assistance, rents that can be supported in the market, and the occupancy profile of the property. The higher the sales price, the higher the rents will need to be after rehabilitation costs are added. The lower the sales price, the more affordable the housing can be. The Committee expects that HUD balances the desire to achieve a return to the FHA fund with the need to preserve affordable housing.

The Committee is concerned that in the past disposition plans were done without consulting the local government, the community, or the affected tenants and the net result has been that many plans did not necessarily reflect the wishes or housing needs of the community in which the project is located. In response to that concern the Committee bill requires HUD to develop procedures to sys-

tematically include the views of the local government, the community and tenants in the planning process. The bill also provides for technical assistance grants to tenant groups, other nonprofits, and public agencies so that such groups can contribute knowledgeably in the process and in some cases bid on the properties. Funding for technical assistance will be provided from funds available to groups purchasing properties subject to prepayment. The Committee recognizes that technical assistance needs for HUD preservation programs is similar regardless of the section of housing law that is to be implemented.

RIGHT OF FIRST REFUSAL

The Committee bill streamlines the right of first refusal process for local and state governments to accelerate property disposition. Current law requires a 90 day period of right of first refusal after a final plan has been developed with the consultation of state and local governments and tenants. However, that 90 day period must run even if there is no interest in acquiring the project on the part of the government(s).

The Committee bill requires HUD to notify local and state governments of the acquisition of title within 30 days of acquisition. It further requires HUD to offer state and local governments a right of first refusal for a period of 45 days after acquiring title. The Committee intends that HUD must determine whether there is interest on the part of state and local governments to purchase the property within a 45 day period after HUD notifies the state and local governments of the acquisition of title. The 45 days would also be used to receive input on the final disposition plan. Only if there is an interest expressed would the 90 day period of right of first refusal have to run. Without such an expression of interest, HUD would be able to market the property to any eligible purchaser upon approval of the disposition plan. If no sale is completed or agreed to under the 90 day right of first refusal period, HUD may offer the property to the general public.

Although the Committee bill requires that the disposition plan be developed in consultation with local government, the community, and tenants; the Committee intends that HUD have the flexibility to accept offers to purchase that are not in conformity with the plan if the offers would further the goals of preservation and affordability.

The Committee also expects that local or state governments, including public housing agencies, may wish to make offers to purchase property on behalf of nonprofits, including tenant organizations, and public agencies. The Committee is aware that few state or local governments have the staff or expertise to own and manage multifamily housing except through the housing authority. So that disposition efforts are not unnecessarily delayed, the Committee bill provides that the governmental offer identify, at the time the offer is made, whether the state or local government plans to transfer the property to such an entity.

DISPLACEMENT OF TENANTS AND RELOCATION ASSISTANCE

The Committee bill provides the same protections to tenants in the event of displacement as are provided under current law. For

projects subject to property disposition, HUD is required to notify tenants who may be displaced by disposition or rehabilitation. HUD is to require owners of property not owned by the Secretary or for which the secretary is not mortgagee in possession to notify tenants of impending displacement.

The Committee has a longstanding concern that tenants of HUD assisted or insured properties must be provided relocation assistance in the event of displacement as a result of government action or rehabilitation. In addition to notice, the Committee bill requires HUD to ensure displaced tenants the right to (1) return if possible to a renovated apartment; (2) occupy an apartment in another HUD owned project; (3) obtain public or section 8 tenant based housing assistance; or receive other appropriate relocation assistance. The Committee bill also clarifies that property disposition constitutes a federal displacement action for purposes of receiving a federal preference under the public housing or section 8 rental assistance program.

MORTGAGE AND PROJECT SALES

The Committee bill also provides for the sale of mortgages and projects prior to foreclosure as long as the transaction provides terms that are at least as advantageous to current and future tenants as were available under the original mortgage or subsidy program. Potential purchasers include state and local governments through a negotiated sale. The Committee expects that permitting the sale of mortgages and projects prior to foreclosure will not only limit the increase in properties under property disposition, but will preserve affordable housing as well.

In implementing this authority for mortgage sales of subsidized mortgages and projects, the Committee intends that HUD ensure through the sales agreement, for at least the term of the original mortgage, that any future foreclosure should not operate to extinguish the section 8 contract or other restrictions that HUD would have been obligated to continue if HUD were foreclosing or selling the project. However, the Committee recognizes that placing the same restriction on the sale of unsubsidized mortgages or projects would be counterproductive. Therefore the Committee bill contains no such restriction.

DEFAULT PREVENTION

The Committee is aware that HUD predicts that without reforms to the property disposition program the inventory will increase from 444 projects, or 75,947 units at the beginning of FY 1993 to 742 at the end of FY 1998. It is that recognition that influenced the Committee's action in this bill. However the Committee also is aware that the reforms in this bill do not impact upon foreclosure prevention of those properties at risk. These are the properties that, according to Price Waterhouse, Coopers and Lybrand, and HUD's own Inspector General, may cause losses close to \$12 billion to the FHA General Insurance Fund in the long run if loan management and servicing continue as they are. The Committee is aware that the FHA already has increased its loan loss reserve from \$5.5 billion to \$11.9 billion to cover future estimated losses.

The Committee intends to monitor the implementation of the property disposition program as well as HUD activities to stem the growth of the inventory to determine what, if any, follow up legislative action is needed during the regular reauthorization process next year.

SECTION 235 MORTGAGE REFINANCING

The Committee bill includes a provision which provides incentives to both borrowers and lenders to refinance section 235 mortgages. This provision, Section 235 Mortgage Refinancing, which amends existing authority to refinance section 235 mortgages, was included in H.R. 3400 as introduced. The Committee understands that this saves an estimated \$302 million over five years for the federal government by lowering the interest rate on existing section 235 mortgages when applicable. The Committee authorizes HUD to: (1) insure the Section 235 mortgages up to an amount that includes costs incurred during the refinancing process, (2) provide incentives to the mortgagee, in addition to the mortgagor, to refinance section 235 mortgages, and (3) use funds recaptured from assistance payments contracts relating to the refinanced mortgages to pay for refinancing costs and incentives. The Committee granted HUD this authority in order to provide HUD the flexibility to offer a variety of incentives to mortgagors and mortgagees, and provide HUD an alternative method of financing these mortgages that is not dependent on the appropriations process.

The Committee realizes that the section 235 Homeownership Assistance program, which provided mortgage insurance and an interest subsidy program for low- and moderate-income homebuyers, was created in the 1968 National Housing Act, and terminated by Congress in 1987. The Committee notes that this program was terminated by Congress in 1987, yet HUD's subsidy covers the payments over the 30 year terms of the loans assigned; therefore, the interest subsidies will continue for years. As the Committee understands it, there are 35,000 section 235 mortgages with interest rates at or above 10 percent, insured for over \$1.3 billion. The savings resulting from refinancing are far greater than the costs incurred; therefore, the Committee bill amended section 235(r) to enable HUD to provide incentive offers to borrowers and lenders engaging in the refinancing process.

USE OF EMERGENCY ASSISTANCE FUNDS FOR RESIDENCY IN MULTIFAMILY HOUSING DISPOSITION PROJECTS

The Committee bill amends section 203(f) of the Housing and Community Development Amendments of 1978, to allow HUD to work with State and local government agencies that currently provide emergency shelter to homeless families, in order to use Federal funds from Title IV of the Social Security Act to assist in housing homeless families in HUD multifamily housing projects.

The Committee notes that there is a potential source of vitally needed Federal funding for housing the homeless which already is allocated to States and local governments. This Federal assistance is authorized under the Title IV, Part A of the Social Security Act

through the Aid to Families with Dependent Children (AFDC) Special Needs program and the Emergency Assistance program.

The Committee bill would permit HUD to work with State and local agencies, to coordinate in using this Federal assistance to house and subsidize homeless families in multifamily housing projects as an alternative to housing them in welfare hotels. For example, under the Committee bill, HUD could review its multifamily properties located in jurisdictions that have welfare hotels, could furnish this information to those jurisdictions, which jurisdictions could then develop plans to utilize the properties to house the homeless.

ADDITIONAL EMPLOYEES TO FACILITATE DISPOSITION OF INVENTORY PROPERTIES

The Committee bill would allow HUD to use amounts otherwise available during fiscal years 1993, 1994 and 1995 in various funds of the Federal Housing Administration for non-overhead expenses, to hire temporary employees to assist in managing, servicing and disposing of HUD's inventory of multifamily and single family properties. Under this section, HUD would be prohibited from hiring more than 400 temporary employees at any one time, using the amounts provided pursuant to this section. In addition, those employees hired under this section, could not be employed in a temporary position for more than a two year period.

The Committee has added this provision in order to provide HUD with additional employee assistance to dispose of its multifamily property inventory in an efficient and effective manner, maximizing the use of the housing stock for low-income housing opportunities.

HUD STREAMLINING

The Committee bill includes a provision from the National Performance Review (NPR) which requires HUD to implement the NPR's recommendation to streamline HUD staffing by consolidating HUD regional and field offices and by reducing HUD staff. The Committee understands that the staff reductions will be achieved through staff attrition and retirement incentives. The Committee understands that HUD is assessing the recommendation and the overall staffing needs of the Department. The Committee believes that these reductions will hinder HUD's ability to effectively administer housing programs, and that it is premature to implement the NPR's broad sweeping recommendation given the need to effectively and efficiently manage HUD programs to house low-income persons throughout the country. The Committee on Banking, Finance and Urban Affairs, Subcommittee on Housing and Community Development has held hearings on HUD's staffing needs and plans to hold future hearings on HUD's reorganization proposal. Testimony indicates that HUD's staffing problems has frustrated its mission, and the Committee recommends that HUD carefully evaluate its human resources in light of its housing mission.

FREEZE ON SECTION 8 CONTRACT RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION

The Committee bill does not contain a provision contained in H.R. 3400 as introduced, which would freeze contract rents for Section 8 new construction and substantial rehabilitation projects. It was not included in the Committee bill because of major constitutional concerns raised by the provision.

The Committee notes that at a hearing held on November 3, 1993, by the Subcommittee on Housing and Community Development on Section 8 issues, witnesses strongly questioned the constitutionality of this provision of H.R. 3400, citing it as an abrogation of Federal government contract rights in violation of the Fifth Amendment. In support of their argument the witnesses pointed to the fact that the Section 8 Housing Assistance Payment Contract, entered into between HUD and the owner, specifically provides for an automatic annual adjustment in rents. The witnesses noted, citing U.S. Supreme Court cases, that this constitutional prohibition against the abrogation of Federal contract rights is even stronger when the government's purpose is to save money—which was the sole purpose behind this provision.

At the Committee's request, the American Law Division of the Congressional Research Service reviewed the constitutionality of this provision. A CRS memorandum analyzing the provision, included in the Committee's report, confirms that there are constitutional problems with this provision for essentially the same reasons cited by the hearing witnesses. The memorandum specifically states that:

We cannot definitively state that the courts would find a constitutional violation in the event of enactment [of this provision] but the judicial precedents do strongly point to a serious constitutional challenge.

Moreover, in its final analysis, the memorandum states that "it is quite doubtful that a freeze of the nature being considered would pass constitutional challenge."

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
Washington, DC, November 9, 1993.

To: Honorable Henry B. Gonzalez, Chairman, Committee on Banking, Finance and Urban Affairs. Attention: Paul Ceja.

From: American Law Division.

Subject: Constitutionality of Legislation Affecting Contracts in Federal Housing.

This memorandum is in response to your request for a brief consideration of the constitutionality of pending legislation that would freeze annual contract rent increases in § 8 housing programs. The § 8 program, 42 U.S.C. § 1437f, assists low-income families in obtaining housing by subsidizing private landlords who rent to low-income tenants. Tenants make rental payments based on their income and ability to pay; HUD then makes "assistance payments" to the landlords in an amount calculated to make up the difference between the tenant's contribution and a "contract rent" agreed upon by the landlord and HUD. The statute requires at least an-

nual adjustments in the amount of the monthly rent to reflect changes in the "fair market rental" value of the dwelling[s], and the contracts entered into between the landlords and HUD contain specific provisions for such annual increases. See *Cisneros v. Alpine Ridge Group*, 113 S.Ct. 1898, 1900–1901 (1993).

Pending before the Banking Committee is legislation, which, *inter alia*, would mandate a freeze in annual increase. The question is whether enactment of such a provision would violate the Constitution. We cannot definitively state that the courts would find a constitutional violation in the event of enactment, but the judicial precedents do strongly point to a serious constitutional challenge that would likely succeed.

As we have noted, the statute requires HUD to enter into contracts—that are known as Housing Assistance Payment (HAP) Contracts or "assistance contracts"—which are to include a specific provision for at least annual adjustments, and the contracts contain these provisions. The Supreme Court has held that the Federal Government, as sovereign, has the power to enter contracts that confer vested rights and the concomitant obligation to honor those rights, *Perry v. United States*, 294 U.S. 330, 350–354 (1935); *Lynch v. United States*, 292 U.S. 571 (1934); and see *United States Trust Co. v. New Jersey*, 431 U.S. 1, 26 n. 25 (1977) (dictum), but it has also cautioned that the sovereign's power to amend subsequently the underlying law remains, "unless surrendered in unmistakable terms." *Bowen v. Public Agencies Opposed to Social Security Entrapment*, 477 U.S. 41, 52 (1986). Typically, Congress includes in legislation a reservation of its power to alter or amend the law, and this reservation is sufficient to rebut any argument of a surrender of sovereignty through entry into a contract conferring vested rights, *id.*, 51–56; *National Railroad Passenger Corp. v. Atchison, T. & S.F.R. Co.*, 470 U.S. 451, 456, 465–470 (1985), but even where no reservation has been included courts must examine the underlying statute and the contract to determine if vested rights were created. *Peterson v. U.S. Dept. of Interior*, 899 F.2d 799, 808 (9th Cir.), *cert. den.*, 498 U.S. 1003 (1990).

Here, we have a statute that speaks in terms of a contract, agreements between HUD and landlords that are called contracts, promises that facially and in context appear to be unconditional, and, further, the statute contains no reservation of alteration or repeal. At least one court has held that the agreements are contracts that confer vested rights, *Alpine Ridge Group v. Kemp*, 955 F.2d 1382 (9th Cir. 1992); on appeal, the Supreme Court did not reach this question but rather held the lower court had misconstrued the terms of the agreement in favor of the plaintiffs. *Cisneros v. Alpine Ridge Group*, *supra*, 113 S.Ct., 1902–1905.

The cases previously cited, *Perry* and *Lynch*, appear more like these agreements than those involved in other cases. The former case involved legislation abrogating the Federal Government's obligation to pay principal and interest on certain bonds in gold coin, whereas the latter case concerned a provision of law canceling renewable term insurance policies issued under the War Risk Insurance Act. In both cases, the Court held that the obligations of the United States were contractual and binding; in *Perry*, the obligation was a debt of the United States, and in *Lynch*, tellingly, the

obligation arose under a contract for which the claimant had paid a monetary premium. See *Bowen*, supra, 477 U.S., 55. The contracts under consideration are bargained-for agreements, for which landlords paid consideration, the building, perhaps, and the maintenance, certainly, of low-income housing in accordance with HUD's specifications. The contracts, moreover, state that they are backed by the "full faith and credit" of the United States. *Acacia Village v. Kemp*, 774 F.Supp. 1240, 1248 (C.D. Calif. 1990), *affd.*, *Alpine Ridge Group v. Kemp*, supra, *revd. on other grounds Cisneros v. Alpine Ridge Group*, supra.

That these agreements of the United States are contracts does not wholly determine that an alteration or abrogation would be invalid under the due process clause. (The due process clause is the relevant benchmark, because the obligation of contracts clause, Art. I, § 10, cl. 1, does not constrain the Federal Government. *PBGC v. R.A. Gray & Co.*, 467 U.S. 717, 732-733 (1984)). But whatever may be reasonable in other contexts is immaterial here because the Court is clear that Congress may not reduce expenditures or save money by abrogating its contractual obligations. *Perry*, supra, 294 U.S., 350-351, *Lynch*, supra, 292 U.S., 580. See also *Bowen*, supra, 477 U.S., 55 ("Congress does not have the power to repudiate its own debts, which constitute 'property' to the lender, simply in order to save money."); *United States Trust Co. v. New Jersey*, supra, 431 U.S., 26 n. 25.

Unless, therefore, there are factors, either in the statute or in the contracts, that may empower the United States, freely or in some circumstances, to disavow them, and nothing we have examined provides support for any such proposition, it is quite doubtful that a freeze of the nature being considered would pass constitutional challenge.

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MERGER OF THE SECTION 8 CERTIFICATE AND VOUCHER PROGRAMS

The Committee bill does not contain a proposal which was in H.R. 3400 as originally introduced, to merge the Section 8 Certificate and Voucher programs. The programs were to be merged under Section 8(o) of the 1937 Housing Act, which authorizes the current Voucher program, but the new program was to be called the "Certificate" program. This merger provision, while contained in a deficit reduction bill, did not produce any budget savings.

Reauthorization bill: The Committee believes that it should consider any proposal to merge the Section 8 Certificate and Voucher programs in the context of a larger reauthorization bill next year because: (1) of the need to protect low income tenants from excessive rent burdens (the merger provision in H.R. 3400, discussed further below, falls short in this regard as it eliminates the 30 percent tenant rent-to-income ratio requirements under current law); (2) much care should be taken in drafting this provision because of the technical complexities involved with merging the Section 8 rental assistance programs; and (3) the merger should essentially use the Certificate program as the foundation and incorporate those elements of the Voucher program which are necessary.

H.R. 3400's merger provision—Adoption of the voucher programs's rental assistance formula: The primary difference between the merger provision originally in H.R. 3400 and the current programs is that it would have essentially taken the approach of the current Voucher program with regard to the determination of a family's rental assistance payment, basically eliminating the 30 percent rent-to-income ratio requirement under the current Section 8 Certificate program.

Under current law, the Certificate program protects low-income tenants from paying an exorbitant amount of their income for rent, by specifically limiting the percentage of their income that can be used for rent—i.e., tenants cannot pay more than 30 percent of their adjusted income towards rent. The Voucher program does not have the same tenant income-rent protections. Historically, the Committee has been very concerned that tenants not pay a disproportionate amount of their income towards rent. The Committee notes that previous to the 1981 Omnibus Budget Reconciliation Act, tenants paid 25 percent of their adjusted income towards rent. The Committee also remains very concerned that tenants under the Voucher program have paid excessive amounts of their income towards rent.

Under the H.R. 3400 merger provision, as under the current Voucher program, where the rent for an apartment exceeds the Payment Standard, as set by the public housing authority (PHA), the family's rental assistance payment would be the difference between the Payment Standard and the family's share of the rent (essentially 30 percent of the family's adjusted income). The family would be responsible for paying any amount by which the rent exceeds the assistance payment—even if this exceeds 30 percent of the family's adjusted income.

The Committee notes that under the current Voucher program, low income families can face particularly excessive rent burdens if the Payment Standard is set very low. Moreover, even when the Payment Standard is set at an adequate level, it has been reported that Voucher program participants still face excessive rent burdens as some owners deliberately set their rents above the Payment Standard knowing that participants will pay the extra rent simply to obtain a place to live. It has been reported to the Committee that a large proportion (over one-quarter) of families under the Voucher Program pay in excess of 40 percent of their adjusted monthly income for rent.

Under 3400 merger provision, the total amount a family could pay towards rent when they initially receive assistance for the family's first apartment, or when they move to another unit could not exceed 45 percent of its adjusted income. However, the Committee believes that it is questionable whether the in new 45 percent standard would adequately protect families against excessive rent burdens. This is particularly true given the fact that under existing law those families who pay 50 percent and over are entitled to a federal preference for the Section 8 program, and are identified by HUD as persons with the "worst case" housing needs.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italic*, existing law in which no change is proposed is shown in roman):

SECTION 203 OF THE HOUSING AND COMMUNITY DEVELOPMENT AMENDMENTS OF 1978

[MANAGEMENT AND PRESERVATION OF HUD-OWNED MULTIFAMILY HOUSING PROJECTS

[SEC. 203. (a) The Secretary of Housing and Urban Development (in this section referred to as the "Secretary") shall manage or dispose of multifamily housing projects that are owned by the Secretary, or that are subject to a mortgage held by the Secretary that is either delinquent, under a workout agreement, or being foreclosed upon by the Secretary, in a manner that is consistent with the National Housing Act and this section and that will, in the least costly fashion among the reasonable alternatives available, further the goals of—

[(1) preserving so that they are available to and affordable by low- and moderate-income persons—

[(A) all units in multifamily housing projects that are subsidized projects or formerly subsidized projects;

[(B) in other multifamily housing projects owned by the Secretary, at least the units that are occupied by low- and moderate-income persons; and

[(C) in all other multifamily housing projects, at least the units that are occupied by low- and moderate-income persons on the date of assignment or foreclosure (whichever is greater);

[(2) preserving and revitalizing residential neighborhoods;

[(3) maintaining the existing housing stock in a decent, safe, and sanitary condition;

[(4) minimizing the involuntary displacement of tenants;

[(5) minimizing the need to demolish projects; and

[(6) maintaining the project for the purpose of providing rental or cooperative housing.

The Secretary, in determining the manner by which a project shall be managed or disposed of, may balance competing goals relating to individual projects in a manner which will further the achievement of the overall purpose of this section.

[(b) The Secretary is authorized, in carrying out this section—

[(1) to dispose of a multifamily housing project owned by the Secretary on a negotiated, competitive bid, or other basis, on such terms as the Secretary deems appropriate considering the low- and moderate-income character of the project, including the number of units in the project occupied by low- and moderate-income persons, and the requirements of subsection (a) of this section, to a purchaser determined by the Secretary to be capable of (A) satisfying the conditions of the disposition; (B) implementing a sound financial and physical management pro-

gram; (C) responding to the needs of the tenants and working cooperatively with resident organizations; (D) providing adequate organizational, staff and financial resources to the project; and (E) meeting such other requirements as the Secretary may determine; and

[(2)(A) to contract for management services for a multifamily housing project subject to subsection (a) that is owned by the Secretary (or for which the Secretary is mortgagee in possession), on a negotiated, competitive bid, or other basis at a price determined by the Secretary to be reasonable, with a manager the Secretary has determined is capable of (i) implementing a sound financial and physical management program, (ii) responding to the needs of the tenants and working cooperatively with resident organizations, (iii) providing adequate organizational, staff, and other resources to implement a management program determined by the Secretary, and (iv) meeting such other requirements as the Secretary may determine; and

[(B) to require the owner of a multifamily housing project subject to subsection (a) that is not owned by the Secretary (and for which the Secretary is not mortgagee in possession), to contract for management services for the project in the manner described in subparagraph (A).

[(c)(1) In the case of multifamily housing projects subject to subsection (a) that are owned by the Secretary (or for which the Secretary is mortgagee in possession), the Secretary shall—

[(A) to the greatest extent possible, maintain all such occupied projects in a decent, safe, and sanitary condition;

[(B) to the greatest extent possible, maintain full occupancy in all such projects; and

[(C) maintain all such projects for purposes of providing rental or cooperative housing for the longest feasible period.

[(2) In the case of any multifamily housing project subject to subsection (a) that is not owned by the Secretary (and for which the Secretary is not mortgagee in possession), the Secretary shall require the owner of the project to carry out the requirements of paragraph (1).

[(d) In carrying out the goals specified in subsection (a)(1) the Secretary shall take not less than one of the following actions:

[(1) Enter into contracts under section 8 of the United States Housing Act of 1937, to the extent budget authority is available for such section 8, with owners of multifamily housing projects that are acquired by a purchaser other than the Secretary at foreclosure or after sale by the Secretary. Such contracts shall provide assistance to the project involved for a period of not less than 15 years. Such contracts shall be sufficient to assist (A) all units in multifamily housing projects that are subsidized projects or formerly subsidized projects; (B) in other multifamily housing projects owned by the Secretary, the units that, on the date title to the projects is acquired by the Secretary, are occupied by lower income families eligible for assistance under such section 8; and (C) in all other multifamily housing projects, the units that are occupied by lower income families eligible for assistance under such section 8 on the date of assignment or foreclosure (whichever is greater). In order to

make available to families any units in subsidized or formerly subsidized projects that are occupied by persons not eligible for assistance under such section 8, but that subsequently become vacant, the contract shall also provide that when any such vacancy occurs the owner involved shall lease the available unit to a family eligible for assistance under such section 8. The Secretary shall provide such contracts at contract rents that, consistent with subsection (a), provide for the rehabilitation of such project and do not exceed the most recently adjusted fair market rents for substantially rehabilitated units published by the Secretary in the Federal Register.

[(2) In the case of multifamily housing projects (other than subsidized or formerly subsidized projects) that are acquired by a purchaser other than the Secretary at foreclosure or after sale by the Secretary, enter into annual contribution contracts with public housing agencies to provide vouchers or certificates under section 8 of the United States Housing Act of 1937 to all low-income families who are eligible for such assistance on the date that the project is acquired by the purchaser. The Secretary shall take action under this paragraph only after making a determination that the requirements under subsection (e) have been complied with and there is available in the area an adequate supply of habitable affordable housing for low-income families.

[(3) In accordance with the authority provided under the National Housing Act, provide purchase-money mortgages, reduce the selling price, or provide other financial assistance to the owners of multifamily housing projects that are acquired by a purchaser other than the Secretary at foreclosure, or after sale by the Secretary, on terms that will ensure that, for a period of not less than 15 years (A) the project will remain available to and affordable by low- and moderate-income persons; and (B) such persons shall pay not more than the amount payable as rent under section 3(a) of the United States Housing Act of 1937.

[(e)(1) Prior to the sale of a multifamily housing project that is owned by the Secretary, the Secretary shall develop a disposition plan for the project that specifies the minimum terms and conditions of the Secretary for disposition of the project, including the initial sales price that is acceptable to the Secretary and the assistance that the Secretary plans to make available to a prospective purchaser in accordance with subsections (a) and (d). The initial sales price shall reflect the value of the project as housing affordable to low- and moderate-income persons for the period required in subsection (d).

[(2) Upon approval of a disposition plan for a project, the Secretary shall notify the local government and the State housing finance agency (or other agency or agencies designated by the Governor) of the terms and conditions of the disposition plan. The local government and the designated State agency shall have 90 days to make an offer to purchase the project.

[(3) The Secretary shall accept an offer that complies with the terms and conditions of the disposition plan. The Secretary may accept an offer that does not comply with the terms and conditions

of the disposition plan if the Secretary determines that the offer will further the preservation objectives of subsection (a) by actions that include extension of the duration of low- and moderate-income affordability restrictions or otherwise restructuring the transaction in a manner that enhances the long-term affordability for low- and moderate-income persons. The Secretary shall, in particular, have discretion to reduce the initial sales price in exchange for the extension of low- and moderate-income affordability restrictions beyond the 15-year period contemplated by the attachment of assistance pursuant to subsection (d)(1). If the Secretary and the local government or designated State agency cannot reach agreement within 90 days, the Secretary may offer the project for sale to the general public.

[(4) The Secretary shall prohibit any local government or designated State agency from transferring projects acquired under a right of first refusal under this subsection to a private entity, unless the local government or designated State agency solicits proposals from such entities through a public process. The solicitation of proposals shall be based on prescribed criteria, which shall include the extension of low- and moderate-income affordability restrictions beyond the 15-year period contemplated by the attachment of assistance pursuant to subsection (d)(1).

[(5) Notwithstanding any other provision of law to the contrary, a local government (including a public housing agency) or designated State agency may purchase a subsidized or formerly subsidized project in accordance with this subsection.

[(f)(1) Whenever tenants will be displaced as a result of the disposition of, or repairs to, a multifamily housing project subject to subsection (a) that is owned by the Secretary (or for which the Secretary is mortgagee in possession), the Secretary shall identify tenants who will be displaced, and shall notify all such tenants of their pending displacement and of any relocation assistance which may be available. In the case of a multifamily housing project subject to subsection (a) that is not owned by the Secretary (and for which the Secretary is not mortgagee in possession), the Secretary shall require the owner of the project to carry out the requirements of this paragraph.

[(2) The Secretary shall assure for any such tenant (who continues to meet applicable qualification standards) the right—

[(A) to return, whenever possible, to a repaired unit;

[(B) except for tenants of above-moderate income, to occupy a unit in another multifamily housing project owned by the Secretary;

[(C) except for tenants of above-moderate income, to obtain housing assistance under the United States Housing Act of 1937; or

[(D) to receive any other available relocation assistance as the Secretary determines to be appropriate.

[(g) Notwithstanding any other provision of law, whenever the Secretary is requested to accept assignment of a mortgage insured by the Secretary which covers a multifamily housing project, and the Secretary determines that partial payment would be less costly to the Federal Government than other reasonable alternatives for maintaining the low- and moderate-income character of the project,

the Secretary may request the mortgagee in lieu of assignment, to accept partial payment of the claim under the mortgage insurance contract and to recast the mortgage, under such terms and conditions as the Secretary may determine. As a condition to a partial claim payment under this section, the mortgagor shall agree to repay to the Secretary the amount of such payment and such obligation shall be secured by a second mortgage on the property on such terms and conditions as the Secretary may determine.

[(h)(1) The Secretary may not approve the sale of any loan or mortgage held by the Secretary (including any loan or mortgage owned by the Government National Mortgage Association) on any subsidized project or formerly subsidized project unless such sale is made as part of a transaction that will ensure that such project will continue to operate at least until the maturity date of such loan or mortgage in a manner that will provide rental housing on terms at least as advantageous to existing and future tenants as the terms required by the program under which the loan or mortgage was made or insured prior to the assignment of the loan or mortgage on such project to the Secretary.

[(2) The Secretary may not approve the sale of any subsidized project (A) that is subject to a mortgage held by the Secretary; or (B) if the sale transaction involves the provision of any additional subsidy funds by the Secretary or a recasting of the mortgage, unless such sale is made as part of a transaction that will ensure that such project will continue to operate at least until the maturity date of the loan or mortgage in a manner that will provide rental housing on terms at least as advantageous to existing and future tenants as the terms required by the program under which the loan or mortgage was made or insured prior to the proposed sale of the project.

[(3) Notwithstanding any provision of law that may require competitive sales or bidding, the Secretary may carry out negotiated sales of subsidized or formerly subsidized mortgages held by the Secretary, without the competitive selection of purchasers or intermediaries, to agencies of State or local government, or groups of investors that include at least 1 such agency of State or local government, if the negotiations are conducted with such agencies, except that—

[(A) the terms of any such sale shall include the agreement of the purchasing agency or agencies of State or local government to act as mortgagee or owner of a beneficial interest in such mortgages in a manner consistent with maintaining the projects that are subject to such mortgages for occupancy by the general tenant group intended to be served by the applicable mortgage insurance program, including, to the extent the Secretary determines appropriate, authorizing such agency of State or local government to enforce the provisions of any regulatory agreement or other program requirements applicable to the related projects; and

[(B) the sales prices for such mortgages shall be, in the determination of the Secretary, the best price that may be obtained for such mortgages from an agency of State or local government, consistent with the expectation and intention that the projects financed will be retained for use under the applica-

ble mortgage insurance program for the life of the initial mortgage insurance contract.

[(i)(1) For the purpose of this section, the term "multifamily housing project" means any multifamily rental housing project which is, or prior to acquisition by the Secretary was, assisted or insured under the National Housing Act, or was subject to a loan under section 202 of the Housing Act of 1959 or section 312 of the Housing Act of 1964, or which is acquired by the Secretary pursuant to any other provision of law.

[(2) For the purpose of this section, the term "subsidized project" means a multifamily housing project receiving any of the following assistance immediately prior to the assignment of the mortgage on such project to, or the acquisition of such mortgage by, the Secretary:

[(A) below market interest rate mortgage insurance under the proviso of section 221(d)(5) of the National Housing Act;

[(B) interest reduction payments made in connection with mortgages insured under section 236 of the National Housing Act;

[(C) rent supplement payments under section 101 of the Housing and Urban Development Act of 1965;

[(D) direct loans at below market interest rates, made under section 202 of the Housing Act of 1959 or to a multifamily housing project under section 312 of the Housing Act of 1964; or

[(E) housing assistance payments made under section 23 of the United States Housing Act of 1937 (as in effect before January 1, 1975) or section 8 of the United States Housing Act of 1937 (excluding payments made for certificates under subsection (b)(1) or vouchers under subsection (o)), if (except for purposes of paragraphs (1) and (2) of subsection (h) and section 183(c) of the Housing and Community Development Act of 1987) such housing assistance payments are made to more than 50 percent of the units in the project.

[(3) For the purpose of this section, the term "formerly subsidized project" means a multifamily housing project owned by the Secretary that was a subsidized project immediately prior to its acquisition by the Secretary.

[(4) For purposes of subsection (a)(1)(C) and subsection (d)—

[(A) the term "date of assignment" means the date of assignment, without regard to whether such date occurs before, on, or after February 5, 1988; and

[(B) in the case of a multifamily housing project assigned before the date of the enactment of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 and for which there are no records identifying the number of low- and moderate-income persons occupying units in the project on the date of assignment, the number of low- and moderate-income persons occupying units in the project within 120 days of such date of enactment shall be used instead.

[(j) The Secretary shall issue such rules and regulations as may be necessary to carry out the provisions of this section within 90 days after the date of enactment of this Act.

[The Secretary shall annually submit to the Congress on June 1 of each year a report describing the status of multifamily housing projects that are subject to subsection (a), which report shall include—

- [(1) the name, address, and size of each project;
- [(2) the nature and date of assignment;
- [(3) the status of the mortgage;
- [(4) the physical condition of the project;
- [(5) the proportion of units in a project that are vacant;
- [(6) the date on which the Secretary became mortgagee in possession or the date of imposition of any receivership;
- [(7) the date and conditions of any foreclosure sale;
- [(8) the date of acquisition by the Secretary; and
- [(9) the date and conditions of any property disposition sale.

The report shall describe the activities carried out under subsection (e) during the preceding year, and shall contain a description and assessment of the rules, guidelines and practices governing the Department's assumption of management responsibilities in multifamily housing projects subject to subsection (a) that are owned by the Secretary (or for which the Secretary is mortgagee in possession) as well as the steps that the Secretary has taken or plans to take to expedite the assumption of management responsibilities of the Department and improve the management performance of the Department, including the expedited repair and turnover of vacant units.]

SEC. 203. MANAGEMENT AND DISPOSITION OF MULTIFAMILY HOUSING PROJECTS.

(a) *GOALS.*—The Secretary of Housing and Urban Development shall manage or dispose of multifamily housing projects that are owned by the Secretary or that are subject to a mortgage held by the Secretary in a manner that—

(1) is consistent with the National Housing Act and this section;

(2) will protect the financial interests of the Federal Government; and

(3) will, in the least costly fashion among reasonable available alternatives, further the goals of—

(A) preserving housing so that it can remain available to and affordable by low-income persons;

(B) preserving and revitalizing residential neighborhoods;

(C) maintaining existing housing stock in a decent, safe, and sanitary condition;

(D) minimizing the involuntary displacement of tenants;

(E) maintaining housing for the purpose of providing rental housing, cooperative housing, and homeownership opportunities for low-income persons; and

(F) minimizing the need to demolish multifamily housing projects.

The Secretary, in determining the manner in which a project is to be managed or disposed of, may balance competing goals relating to individual projects in a manner that will further the purposes of this section.

(b) *DEFINITIONS.*—For purposes of this section:

(1) **MULTIFAMILY HOUSING PROJECT.**—The term “multifamily housing project” means any multifamily rental housing project which is, or prior to acquisition by the Secretary was, assisted or insured under the National Housing Act, or was subject to a loan under section 202 of the Housing Act of 1959.

(2) **SUBSIDIZED PROJECT.**—The term “subsidized project” means a multifamily housing project that, immediately prior to the assignment of the mortgage on such project to, or the acquisition of such mortgage by, the Secretary, was receiving any of the following types of assistance:

(A) Below market interest rate mortgage insurance under the proviso of section 221(d)(5) of the National Housing Act.

(B) Interest reduction payments made in connection with mortgages insured under section 236 of the National Housing Act.

(C) Direct loans made under section 202 of the Housing Act of 1959.

(D) Assistance in the form of—

(i) rent supplement payments under section 101 of the Housing and Urban Development Act of 1965,

(ii) additional assistance payments under section 236(f)(2) of the National Housing Act,

(iii) housing assistance payments made under section 23 of the United States Housing Act of 1937 (as in effect before January 1, 1975), or

(iv) housing assistance payments made under section 8 of the United States Housing Act of 1937 (excluding payments made for tenant-based assistance under section 8),

if (except for purposes of section 183(c) of the Housing and Community Development Act of 1987) such assistance payments are made to more than 50 percent of the units in the project.

(3) **FORMERLY SUBSIDIZED PROJECT.**—The term “formerly subsidized project” means a multifamily housing project owned by the Secretary that was a subsidized project immediately prior to its acquisition by the Secretary.

(4) **UNSUBSIDIZED PROJECT.**—The term “unsubsidized project” means a multifamily housing project owned by the Secretary that is not a subsidized project or a formerly subsidized project.

(5) **AFFORDABLE.**—A unit shall be considered affordable if—

(A) for units occupied—

(i) by very low-income families, the rent does not exceed 30 percent of 50 percent of the area median income, as determined by the Secretary, with adjustments for smaller and larger families, except that the Secretary may establish the rent based on an amount higher or lower than 50 percent of the median for the area on the basis of the Secretary’s findings that such variation is necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes; and

(ii) by low-income families other than very low-income families, the rent does not exceed 30 percent of 80

percent of the area median income, as determined by the Secretary, except that the Secretary may establish the rent based on an amount higher or lower than 80 percent of the median for the area on the basis of the Secretary's findings that such variation is necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes; or

(B) the unit, or the family residing in the unit, is receiving assistance under section 8 of the United States Housing Act of 1937.

(6) **LOW-INCOME FAMILIES AND VERY LOW-INCOME FAMILIES.**—The terms "low-income families" and "very low-income families" shall have the meanings given the terms in section 3(b) of the United States Housing Act of 1937.

(7) **PREEXISTING TENANT.**—The term "preexisting tenant" means, with respect to a multifamily housing project, a family that—

(A) resides in a unit in the project; and

(B) immediately before foreclosure or acquisition of the project by the Secretary, was residing in a unit in the project.

(8) **MARKET AREA.**—The term "market area" means a market area determined by the Secretary for purposes of establishing fair market rentals under section 8(c) of the United States Housing Act of 1937.

(9) **SECRETARY.**—The term "Secretary" means the Secretary of Housing and Urban Development.

(c) **MANAGEMENT OR DISPOSITION OF PROPERTY.**—

(1) **DISPOSITION TO PURCHASERS.**—The Secretary may, in carrying out this section, dispose of a multifamily housing project owned by the Secretary on a negotiated, competitive bid, or other basis, on such terms as the Secretary deems appropriate considering the low-income character of the project and the market area in which the project is located and the requirements of subsection (a), to a purchaser determined by the Secretary to be capable of—

(A) satisfying the conditions of the disposition;

(B) implementing a sound financial and physical management program that is designed to enable the project to meet anticipated operating and repair expenses to ensure that the project will remain in decent, safe, and sanitary condition;

(C) responding to the needs of the tenants and working cooperatively with tenant organizations;

(D) providing adequate organizational, staff, and financial resources to the project; and

(E) meeting such other requirements as the Secretary may determine.

(2) **CONTRACTING FOR MANAGEMENT SERVICES.**—The Secretary may, in carrying out this section—

(A) contract for management services for a multifamily housing project that is owned by the Secretary (or for which the Secretary is mortgagee in possession), on a negotiated,

competitive bid, or other basis at a price determined by the Secretary to be reasonable, with a manager the Secretary has determined is capable of—

(i) implementing a sound financial and physical management program that is designed to enable the project to meet anticipated operating and maintenance expenses to ensure that the project will remain in decent, safe, and sanitary condition;

(ii) responding to the needs of the tenants and working cooperatively with tenant organizations;

(iii) providing adequate organizational, staff, and other resources to implement a management program determined by the Secretary; and

(iv) meeting such other requirements as the Secretary may determine;

(B) require the owner of a multifamily housing project that is subject to a mortgage held by the Secretary to contract for management services for the project in the manner described in subparagraph (A); and

(C) contract for management of such properties with non-profit organizations and public agencies, including public housing authorities.

(d) MAINTENANCE OF HOUSING PROJECTS.—

(1) **HOUSING PROJECTS OWNED BY THE SECRETARY.**—In the case of multifamily housing projects that are owned by the Secretary (or for which the Secretary is mortgagee in possession), the Secretary shall—

(A) to the greatest extent possible, maintain all such occupied projects in a decent, safe, and sanitary condition;

(B) to the greatest extent possible, maintain full occupancy in all such projects; and

(C) maintain all such projects for purposes of providing rental or cooperative housing.

(2) **HOUSING PROJECTS SUBJECT TO A MORTGAGE HELD BY SECRETARY.**—In the case of any multifamily housing project that is subject to a mortgage held by the Secretary, the Secretary shall require the owner of the project to carry out the requirements of paragraph (1).

(3) **HOUSING STANDARDS.**—In disposing of any multifamily housing project under this section, the Secretary shall enter into an agreement with the purchaser under which the purchaser agrees that the project will be rehabilitated so that it is in compliance with, and will be maintained in compliance with, any standards under applicable State or local laws, rules, ordinances, or regulations relating to the physical condition of the housing and any such standards established by the Secretary.

(e) REQUIRED ASSISTANCE.—In disposing of any multifamily housing property under this section, the Secretary shall take, separately or in combination, one or more of the following actions:

(1) **CONTRACT WITH OWNER FOR PROJECT-BASED ASSISTANCE.**—In the case of multifamily housing projects that are acquired by a purchaser other than the Secretary at foreclosure or after sale by the Secretary, the Secretary may enter into contracts under section 8 of the United States Housing Act of 1937

(to the extent budget authority is available) with owners of the projects, subject to the following requirements:

(A) **SUBSIDIZED OR FORMERLY SUBSIDIZED PROJECTS RECEIVING MORTGAGE-RELATED ASSISTANCE.**—In the case of a subsidized or formerly subsidized project referred to in subparagraphs (A) through (C) of subsection (b)(2)—

(i) the contract shall be sufficient to assist at least all units covered by an assistance contract under any of the authorities referred to in subsection (b)(2)(D) before acquisition, unless the Secretary acts pursuant to the provisions of subparagraph (C);

(ii) the contract shall provide that, when a vacancy occurs in any unit in the project requiring project-based rental assistance pursuant to this subparagraph that is occupied by a family who is not eligible for assistance under such section 8, the owner shall lease the available unit to a family eligible for assistance under such section 8; and

(iii) the Secretary shall take actions to ensure that any unit in any such project that does not otherwise receive project-based assistance under this subparagraph remains available and affordable for the remaining useful life of the project, as defined by the Secretary; to carry out this clause, the Secretary may require purchasers to establish use or rent restrictions maintaining the affordability of such units.

(B) **SUBSIDIZED OR FORMERLY SUBSIDIZED PROJECTS RECEIVING RENTAL ASSISTANCE.**—In the case of a subsidized or formerly subsidized project referred to in subsection (b)(2)(D) that is not subject to subparagraph (A)—

(i) the contract shall be sufficient to assist at least all units in the project that are covered, or were covered immediately before foreclosure on or acquisition of the project by the Secretary, by an assistance contract under any of the provisions referred to in such subsection, unless the Secretary acts pursuant to provisions of subparagraph (C); and

(ii) the contract shall provide that, when a vacancy occurs in any unit in the project requiring project-based rental assistance pursuant to this subparagraph that is occupied by a family who is not eligible for assistance under such section 8, the owner shall lease the available unit to a family eligible for assistance under such section 8.

(C) **EXCEPTIONS.**—In lieu of providing project-based assistance under subparagraph (A)(i) or (B)(i) for a project, the Secretary may require certain units in unsubsidized projects to contain use restrictions providing that such units will be available to and affordable by very low-income families for the remaining useful life of the project, as defined by the Secretary, if—

(i) the Secretary provides an increase in project-based assistance for very low-income persons for units within unsubsidized projects located within the same market

area as the project otherwise required to be assisted with project-based assistance under subparagraph (A) or (B) that is at least equivalent to the units otherwise required to be so assisted; and

(ii) upon disposition of the project, low-income families residing in units otherwise required to be assisted with project-based assistance under subparagraph (A) or (B) receive tenant-based assistance under such section 8.

(D) **UNSUBSIDIZED PROJECTS.**—Notwithstanding actions taken pursuant to subparagraph (C), in the case of unsubsidized projects, the contract shall be sufficient to provide—

(i) project-based rental assistance for all units that are covered, or were covered immediately before foreclosure or acquisition, by an assistance contract under—

(I) the new construction and substantial rehabilitation program under section 8(b)(2) of the United States Housing Act of 1937 (as in effect before October 1, 1983);

(II) the property disposition program under section 8(b) of such Act;

(III) the project-based certificate program under section 8 of such Act;

(IV) the moderate rehabilitation program under section 8(e)(2) of such Act;

(V) section 23 of such Act (as in effect before January 1, 1975);

(VI) the rent supplement program under section 101 of the Housing and Urban Development Act of 1965; or

(VII) section 8 of the United States Housing Act of 1937, following conversion from assistance under section 101 of the Housing and Urban Development Act of 1965; and

(ii) tenant-based assistance under section 8 of the United States Housing Act of 1937 for families that are preexisting tenants of the project in units that, immediately before foreclosure or acquisition of the project by the Secretary, were covered by an assistance contract under the loan management set-aside program under section 8(b) of the United States Housing Act of 1937 at such time.

(2) **ANNUAL CONTRIBUTION CONTRACTS FOR TENANT-BASED ASSISTANCE.**—In the case of multifamily housing projects that are acquired by a purchaser other than the Secretary at foreclosure or after sale by the Secretary, the Secretary may enter into annual contribution contracts with public housing agencies to provide tenant-based assistance under section 8 of the United States Housing Act of 1937 on behalf of all low-income families who, on the date that the project is acquired by the purchaser, reside in the project and are eligible for such assistance, subject to the following requirements:

(A) **REQUIREMENT OF SUFFICIENT AFFORDABLE HOUSING IN AREA.**—The Secretary may not take action under this paragraph unless the Secretary determines that there is available in the area an adequate supply of habitable, affordable housing for very low-income families and other low-income families.

(B) **LIMITATION FOR SUBSIDIZED AND FORMERLY SUBSIDIZED PROJECTS.**—The Secretary may not take actions under this paragraph in connection with units in subsidized or formerly subsidized projects for more than 10 percent of the aggregate number of units in such projects disposed of by the Secretary annually.

(C) **PROVISION OF PROJECT-BASED ASSISTANCE UNDER CHANGED CIRCUMSTANCES.**—The Secretary shall, to the extent such amounts are available, provide project-based assistance under section 8 of the United States Housing Act of 1937 for any units in a project for which the Secretary has provided tenant-based assistance under this paragraph if, and only to the extent that, the owner demonstrates to the satisfaction of the Secretary within 24 months after the date of acquisition by the owner that—

(i) the provision of such project-based assistance (I) is necessary to maintain the financial viability of the project because of changes occurring after such acquisition that are beyond the control of the owner, and (II) may reasonably be expected to maintain such financial viability; or

(ii) sufficient habitable, affordable housing for very low-income families and other low-income families is not available in the market area in which the project is located.

Assistance provided pursuant to this subparagraph shall have a term of not more than 5 years.

(3) **OTHER ASSISTANCE.**—

(A) **IN GENERAL.**—In accordance with the authority provided under the National Housing Act, the Secretary may reduce the selling price, apply use or rent restrictions on certain units, or provide other financial assistance to the owners of multifamily housing projects that are acquired by a purchaser other than the Secretary at foreclosure, or after sale by the Secretary, on terms that ensure that—

(i) at least the units in the project otherwise required to receive project-based assistance pursuant to subparagraphs (A), (B), or (D) of paragraph (1) are available to and affordable by low-income persons; and

(ii) for the remaining useful life of the project, as defined by the Secretary, there shall be in force such use or rent restrictions as the Secretary may prescribe.

(B) **VERY LOW-INCOME TENANTS.**—If, as a result of actions taken pursuant to this paragraph, the rents charged to any very low-income families residing in the project who are otherwise required (pursuant to subparagraph (A), (B), or (D) of paragraph (1)) to receive project-based assistance under section 8 of the United States Housing Act of 1937

exceed the amount payable as rent under section 3(a) of the United States Housing Act of 1937, the Secretary shall provide assistance under section 8 of such Act to such families.

(4) TRANSFER FOR USE UNDER OTHER PROGRAMS OF SECRETARY.—

(A) IN GENERAL.—The Secretary may transfer a multifamily housing project—

(i) to a public housing agency for use of the project as public housing; or

(ii) to an entity eligible to own or operate housing under assisted section 202 of the Housing Act of 1959 or under section 811 of the Cranston-Gonzalez National Affordable Housing Act for use as supportive housing under either of such sections.

(B) REQUIREMENTS FOR AGREEMENT.—An agreement providing for the transfer of a project described in subparagraph (A) shall—

(i) contain such terms, conditions, and limitations as the Secretary determines appropriate, including requirements to ensure use of the project as public housing, supportive housing under section 202 of the Housing Act of 1959, or supportive housing under section 811 of the Cranston-Gonzalez National Affordable Housing Act, as applicable; and

(ii) ensure that no tenant of the project will be displaced as a result of actions taken under this paragraph.

(f) DISCRETIONARY ASSISTANCE.—In addition to the actions taken under subsection (e) for a multifamily housing project, the Secretary may take any of the following actions:

(1) SHORT-TERM LOANS.—The Secretary may provide a short-term loan to facilitate the sale of a multifamily housing project to a nonprofit organization or a public agency if—

(A) authority for such loans is provided in advance in an appropriation Act;

(B) such loan has a term of not more than 5 years;

(C) the Secretary determines, based upon documentation provided to the Secretary, that the borrower has obtained a commitment of permanent financing to replace the short-term loan from a lender who meets standards established by the Secretary; and

(D) the terms of such loan is consistent with prevailing practices in the marketplace or the provision of such loan results in no cost to the Government, as defined in section 502 of the Congressional Budget Act of 1974.

(2) TENANT-BASED ASSISTANCE.—The Secretary may make available tenant-based assistance under section 8 of the United States Housing Act of 1937 to very low-income families residing in a multifamily housing project that do not otherwise qualify for project-based assistance.

(3) ALTERNATIVE USES.—

(A) IN GENERAL.—Notwithstanding any other provision of law, after providing notice to and an opportunity to com-

ment by existing tenants, the Secretary may allow not more than—

(i) 10 percent of the total number of units in multifamily housing projects that are disposed of by the Secretary during any 1-year period to be made available for uses other than rental or cooperative uses, including low-income homeownership opportunities, or in any particular project, community space, office space for tenant or housing-related service providers or security programs, or small business uses, if such uses benefit the tenants of the project; and

(ii) 5 percent of the total number of units in multifamily housing projects that are disposed of by the Secretary during any 1-year period to be used in any manner, if the Secretary and the unit of general local government or area-wide governing body determine that such use will further fair housing, community development, or neighborhood revitalization goals.

(B) **DISPLACEMENT PROTECTION.**—The Secretary may take actions under subparagraph (A) only if—

(i) tenant-based rental assistance under section 8 of the United States Housing Act of 1937 is made available to each eligible family residing in the project that is displaced as a result of such actions; and

(ii) the Secretary determines that sufficient habitable, affordable rental housing is available in the market area in which the project is located to allow use of such assistance.

(4) **EMERGENCY ASSISTANCE FUNDS.**—The Secretary may make arrangements with State agencies and units of general local government of States receiving emergency assistance under part A of title IV of the Social Security Act for the provision of assistance under such Act on behalf of eligible families who would reside in any multifamily housing projects.

(g) **REQUIRED ASSISTANCE FOR CERTAIN PROJECTS.**—In disposing under this section of multifamily housing projects, the Secretary shall, to the extent that such assistance is available—

(1) in the case of any project located in a market area in which habitable, affordable rental housing for very low-income families is not sufficiently available, provide tenant-based or project-based rental assistance under section 8 of the United States Housing Act of 1937 (depending on the circumstances of the family) to very low-income families who are preexisting tenants of the project and do not otherwise qualify for project-based assistance; and

(2) provide project-based assistance for very low-income families who are preexisting tenants of the project to the extent that such assistance is necessary to maintain the financial viability of the project and is reasonably expected to maintain such financial viability.

(h) **RENT RESTRICTIONS.**—

(1) **AUTHORITY FOR USE IN UNSUBSIDIZED PROJECTS.**—In carrying out the goals specified in subsection (a), the Secretary may require certain units in unsubsidized projects to be subject

to use or rent restrictions providing that such units will be available to and affordable by very low-income persons for the remaining useful life of the property, as defined by the Secretary.

(2) **REQUIREMENT REGARDING SUBSIDIZED AND FORMERLY SUBSIDIZED PROJECTS.**—In disposing under this section of any subsidized or formerly subsidized multifamily housing project, the Secretary shall require rent restrictions providing that any unassisted very low-income family who resides in a unit in the project on the date of disposition may not pay as rent for the unit an amount in excess of 30 percent of the adjusted income of the family at any time during the period beginning upon such disposition and ending upon the earlier of—

(A) 15 years after such disposition; or

(B) the time at which the family first fails to qualify as a very low-income family.

(3) **REQUIREMENT REGARDING UNSUBSIDIZED PROJECTS.**—Unless the Secretary determines that the applicability of rent restrictions under this paragraph to a project would unreasonably impede the disposition of the project, in disposing under this section of any unsubsidized multifamily housing project the Secretary shall require rent restrictions providing that any unassisted very low-income family who resides in a unit in the project on the date of disposition may not pay as rent for the unit an amount in excess of 30 percent of the adjusted income of the family at any time during the period beginning upon such disposition and ending upon the earlier of—

(A) 15 years after such disposition; or

(B) the time at which the family first fails to qualify as a very low-income family.

(4) **PHASE-IN OF RENT INCREASES.**—If the disposition under this section of any multifamily housing project results in any rent increases for any very low-income families who are pre-existing tenants of the project and are paying less than 30 percent of the adjusted income of the family for rent, the Secretary shall provide that such rent increases shall be phased in equally over a period of not less than 3 years.

(5) **DEFINITION OF "UNASSISTED VERY LOW-INCOME FAMILY".**—For purposes of this subsection, the term "unassisted very low-income family" means a very low-income family who resides in a unit that is not assisted with project-based assistance under section 8 of the United States Housing Act of 1937 and on whose behalf tenant-based assistance under such section is not provided.

(i) **CONTRACT REQUIREMENTS.**—Contracts for project-based rental assistance under section 8 of the United States Housing Act of 1937 provided pursuant to this section shall be subject to the following requirements:

(1) **CONTRACT TERM.**—The contract shall have a term of 15 years, except that—

(A) the term may be less than 15 years to the extent that the Secretary finds that, based on the rental charges and financing for the multifamily housing project to which the

contract relates, the financial viability of the project can be maintained under a contract having such a term;

(B) to the extent that units receive project-based assistance for a contract term of less than 15 years, the Secretary shall require that the amount of rent payable by tenants of the project for such units shall not exceed the amount payable for rent under section 3(a) of the United States Housing Act of 1937 for a period of at least 15 years; and

(C) the term may be less than 15 years if such assistance is provided—

(i) under a contract authorized under section 6 of the HUD Demonstration Act of 1993; and

(ii) pursuant to a disposition plan under this section for a project that is determined by the Secretary to be otherwise in compliance with this section.

(2) CONTRACT RENT.—

(A) IN GENERAL.—The Secretary shall establish contract rents for section 8 project-based rental contracts issued under this section at levels that provide sufficient amounts for the necessary costs of rehabilitating and operating the multifamily housing project and do not exceed 144 percent of the existing housing fair market rentals for the market area in which the project assisted under the contract is located.

(B) UP-FRONT GRANTS AND LOANS.—If the Secretary determines that action under this subparagraph is more cost-effective, the Secretary may utilize the budget authority provided for contracts issued under this section for project-based assistance under section 8 of the United States Housing Act of 1937 to (in addition to providing project-based section 8 rental assistance)—

(i) provide up-front grants to nonprofit organizations or public housing agencies for the necessary cost of rehabilitation; or

(ii) pay any cost to the Government, as defined in section 502 of the Congressional Budget Act of 1974, for loans made pursuant to subsection (f)(1).

(j) DISPOSITION PLAN.—

(1) IN GENERAL.—Prior to the sale of a multifamily housing project that is owned by the Secretary, the Secretary shall develop an initial disposition plan for the project that specifies the minimum terms and conditions of the Secretary for disposition of the project, the initial sales price that is acceptable to the Secretary, and the assistance that the Secretary plans to make available to a prospective purchaser in accordance with this section. The initial sales price shall be reasonably related to the intended use of the property after sale, any rehabilitation requirements for the project, the rents for units in the project that can be supported by the market, the amount of rental assistance available for the project under section 8 of the United States Housing Act of 1937, and the occupancy profile of the project.

(2) COMMUNITY AND TENANT INPUT.—In carrying out this section, the Secretary shall develop procedures—

(A) to obtain appropriate and timely input into disposition plans from officials of the unit of general local government affected, the community in which the project is situated, and the tenants of the project; and

(B) to facilitate, where feasible and appropriate, the sale of multifamily housing projects to existing tenant organizations with demonstrated capacity, to public or nonprofit entities that represent or are affiliated with existing tenant organizations, or to other public or nonprofit entities.

(3) **TECHNICAL ASSISTANCE.**—To carry out the procedures developed under paragraph (2), the Secretary may provide technical assistance, directly or indirectly, and may use amounts available for technical assistance under the Emergency Low Income Housing Preservation Act of 1987, subtitle C of the Low-Income Housing Preservation and Resident Homeownership Act of 1990, subtitle B of title IV of the Cranston-Gonzalez National Affordable Housing Act, or this section, for the provision of technical assistance under this paragraph. Recipients of technical assistance funding under the provisions referred to in this paragraph shall be permitted to provide technical assistance to the extent of such funding under any of such provisions or under this paragraph, notwithstanding the source of the funding.

(k) RIGHT OF FIRST REFUSAL FOR LOCAL AND STATE GOVERNMENT AGENCIES.—

(1) **NOTIFICATION OF ACQUISITION OF TITLE.**—Not later than 30 days after acquiring title to a multifamily housing project, the Secretary shall notify the unit of general local government (which, for purposes of this subsection, shall include any public housing agency) for the area in which the project is located and the State agency or agencies designated by the Governor of the State in which the project is located of such acquisition.

(2) **RIGHT OF FIRST REFUSAL.**—During the period beginning upon acquisition of title to a multifamily housing project and ending 45 days after completion of notification under paragraph (1), the Secretary may offer to sell and may sell the project only to the unit of general local government or the designated State agency.

(3) **EXPRESSION OF INTEREST.**—The unit of general local government or designated State agency may submit to the Secretary a preliminary expression of interest in a project not later than 45 days after receiving notification from the Secretary under paragraph (1) regarding the project. The Secretary may take such actions as may be necessary to require the unit of general local government or designated State agency to substantiate such interest.

(4) **TIMELY EXPRESSION OF INTEREST.**—If the unit of general local government or designated State agency has submitted an expression of interest in a project before the expiration of the 45-day period referred to in paragraph (3) and has substantiated such interest if requested, the Secretary, upon approval of a disposition plan for the project, shall—

(A) notify the unit of general local government and designated State agency of the terms and conditions of the disposition plan; and

(B) provide that, for 90 days after the date of such notification, only the unit of general local government or designated State agency may make an offer to purchase the project.

(5) **FAILURE TO TIMELY EXPRESS INTEREST.**—If the unit of general local government or designated State agency does not timely express and, if requested, substantiate interest in a project as provided in paragraph (4), the Secretary may offer the project for sale to any interested person or entity upon approval of the disposition plan for the project.

(6) **ACCEPTANCE OF OFFERS.**—If the unit of general local government or designated State agency timely expresses and, if requested, substantiates interest in a project as provided in paragraph (4), the Secretary shall accept an offer made by the unit of general local government or designated State agency during the 90-day period for the project under paragraph (4)(B) that complies with the terms and conditions of the disposition plan for the project. The Secretary may accept an offer that does not comply with the terms and conditions of the disposition plan if the Secretary determines that the offer will further the goals specified in subsection (a) by actions that include extension of the duration of low-income affordability restrictions or otherwise restructuring the transaction in a manner that enhances the long-term affordability for low-income persons. The Secretary may reduce the initial sales price in exchange for the extension of low-income affordability restrictions beyond the period of assistance contemplated by the attachment of assistance pursuant to subsection (i)(1) and in order to facilitate affordable rents.

(7) **FAILURE TO SELL TO LOCAL OR STATE GOVERNMENT AGENCY.**—If the Secretary and the unit of general local government or designated State agency cannot reach agreement on an offer for purchase of a project within the 90-day period for the project under paragraph (4)(B), the Secretary may offer the project for sale to the general public.

(8) **PURCHASE BY UNIT OF GENERAL LOCAL GOVERNMENT OR DESIGNATED STATE AGENCY.**—Notwithstanding any other provision of law, a unit of general local government (including a public housing agency) or designated State agency may purchase a subsidized or formerly subsidized project in accordance with this subsection.

(9) **APPLICABILITY.**—This subsection shall apply to projects that are acquired on or after the effective date of this subsection. With respect to projects acquired before such effective date, the Secretary may apply—

(A) the requirements of paragraphs (2) and (3) of section 203(e) (as in effect immediately before the effective date of this subsection); or

(B) the requirements of paragraphs (1) through (7) of this subsection, if—

(i) the Secretary gives the unit of general local government or designated State agency 45 days to express interest in the project; and

(ii) the unit of general local government or designated State agency expresses interest in the project before the expiration of the 45-day period, and substantiates such interest if requested, within 90 days from the date of notification of the terms and conditions of the disposition plan to make an offer to purchase the project.

(10) **TRANSFER BY LOCAL OR STATE GOVERNMENT AGENCY PURCHASERS.**—The Secretary shall permit units of general local government and designated State agencies to transfer multifamily housing projects acquired under the right of first refusal under this subsection to a private entity, but only if the local government or State agency clearly identifies its intention to transfer the project in the offer to purchase the property accepted by the Secretary under this subsection.

(l) **DISPLACEMENT OF TENANTS AND RELOCATION ASSISTANCE.**—

(1) **IN GENERAL.**—Whenever tenants will be displaced as a result of the disposition of, or repairs to, a multifamily housing project that is owned by the Secretary (or for which the Secretary is mortgagee in possession), the Secretary shall identify tenants who will be displaced and shall notify all such tenants of their pending displacement and of any relocation assistance that may be available. In the case of the disposition of tenants of a multifamily housing project that is not owned by the Secretary (and for which the Secretary is not mortgagee in possession), the Secretary shall require the owner of the project to carry out the requirements of this paragraph.

(2) **RIGHTS OF DISPLACED TENANTS.**—The Secretary shall ensure for any such tenant (who continues to meet applicable qualification standards) the right—

(A) to return, whenever possible, to a repaired unit;

(B) to occupy a unit in another multifamily housing project owned by the Secretary;

(C) to obtain housing assistance under the United States Housing Act of 1937; or

(D) to receive any other available relocation assistance as the Secretary determines to be appropriate.

(m) **MORTGAGE AND PROJECT SALES.**—

(1) **IN GENERAL.**—The Secretary may not approve the sale of any loan or mortgage held by the Secretary (including any loan or mortgage owned by the Government National Mortgage Association) on any subsidized project or formerly subsidized project, unless such sale is made as part of a transaction that will ensure that such project will continue to operate at least until the maturity date of such loan or mortgage, in a manner that will provide rental housing on terms at least as advantageous to existing and future tenants as the terms required by the program under which the loan or mortgage was made or insured prior to the assignment of the loan or mortgage on such project to the Secretary.

(2) **SALE OF CERTAIN PROJECTS.**—*The Secretary may not approve the sale of any subsidized project—*

(A) *that is subject to a mortgage held by the Secretary,*
or

(B) *if the sale transaction involves the provision of any additional subsidy funds by the Secretary or a recasting of the mortgage,*
unless such sale is made as part of a transaction that will ensure that the project will continue to operate, at least until the maturity date of the loan or mortgage, in a manner that will provide rental housing on terms at least as advantageous to existing and future tenants as the terms required by the program under which the loan or mortgage was made or insured prior to the proposed sale of the project.

(3) **MORTGAGE SALES TO STATE AND LOCAL GOVERNMENTS.**—*Notwithstanding any provision of law that requires competitive sales or bidding, the Secretary may carry out negotiated sales of subsidized or formerly subsidized mortgages held by the Secretary, without the competitive selection of purchasers or intermediaries, to units of general local government or State agencies, or groups of investors that include at least one such unit of general local government or State agency, if the negotiations are conducted with such agencies, except that—*

(A) *the terms of any such sale shall include the agreement of the purchasing agency or unit of local government or State agency to act as mortgagee or owner of a beneficial interest in such mortgages, in a manner consistent with maintaining the projects that are subject to such mortgages for occupancy by the general tenant group intended to be served by the applicable mortgage insurance program, including, to the extent the Secretary determines appropriate, authorizing such unit of local government or State agency to enforce the provisions of any regulatory agreement or other program requirements applicable to the related projects; and*

(B) *the sales prices for such mortgages shall be, in the determination of the Secretary, the best prices that may be obtained for such mortgages from a unit of general local government or State agency, consistent with the expectation and intention that the projects financed will be retained for use under the applicable mortgage insurance program for the life of the initial mortgage insurance contract.*

(4) **SALE OF MORTGAGES COVERING UNSUBSIDIZED PROJECTS.**—*Notwithstanding any other provision of law, the Secretary may sell mortgages held on unsubsidized projects on such terms and conditions as the Secretary may prescribe.*

(n) **REPORT TO CONGRESS.**—*Not later than June 1 of each year, the Secretary shall submit to the Congress a report describing the status of multifamily housing projects owned by or subject to mortgages held by the Secretary. The report shall include—*

- (1) *the name, address, and size of each project;*
- (2) *the nature and date of assignment of each project;*
- (3) *the status of the mortgage for each project;*
- (4) *the physical condition of each project;*

(5) for each subsidized or formerly subsidized project, an occupancy profile of the project, stating the income, family size, race, and ethnic origin of current residents and the rents paid by such residents;

(6) the proportion of units in each project that are vacant;

(7) the date on which the Secretary became mortgagee in possession of each project, if applicable;

(8) the date and conditions of any foreclosure sale for a project;

(9) the date of acquisition of each project by the Secretary, if applicable;

(10) the date and conditions of any property disposition sale for a project;

(11) a description of actions undertaken pursuant to this section, including a description of the effectiveness of such actions and any impediments to the disposition or management of multifamily housing projects;

(12) a description of any of the functions performed in connection with this section that are contracted out to public or private entities or to States; and

(13) a description of the activities carried out under subsection (k) during the preceding year.

UNITED STATES HOUSING ACT OF 1937

TITLE I—GENERAL PROGRAM OF ASSISTED HOUSING

* * * * *

CONTRACT PROVISIONS AND REQUIREMENTS

SEC. 6. (a) * * *

* * * * *

(c) Every contract for contributions shall provide that—

(1) * * *

* * * * *

(4) the public housing agency shall comply with such procedures and requirements as the Secretary may prescribe to assure that sound management practices will be followed in the operation of the project, including requirements pertaining to—

(A) except for projects or portions of projects designated for occupancy pursuant to section 7(a) with respect to which the Secretary has determined that application of this subparagraph would result in excessive delays in meeting the housing need of such families, the establishment of tenant selection criteria which—

(i) for not less than 50 percent of the units that are made available for occupancy in a given fiscal year, give preference to families that occupy substandard housing (including families that are homeless or living in a shelter for homeless families), are paying more than 50 percent of family income for rent, or are invol-

untarily displaced (*including displacement because of disposition of a multifamily housing project under section 203 of the Housing and Community Development Amendments of 1978*) at the same time they are seeking assistance under this Act;

* * * * *

LOWER INCOME HOUSING ASSISTANCE

SEC. 8. (a) * * *

* * * * *

(d)(1) Contracts to make assistance payments entered into by a public housing agency with an owner of existing housing units shall provide (with respect to any unit) that—

(A) the selection of tenants for such units shall be the function of the owner, subject to the provisions of the annual contributions contract between the Secretary and the agency, except that the tenant selection criteria used by the owner shall—

(i) for not less than (I) 70 percent of the families who initially receive assistance in any 1-year period in the case of assistance attached to a structure and (II) 90 percent of such families in the case of assistance not attached to a structure, give preference to families that occupy substandard housing (including families that are homeless or living in a shelter for homeless families), are paying more than 50 percent of family income for rent, or are involuntarily displaced (*including displacement because of disposition of a multifamily housing project under section 203 of the Housing and Community Development Amendments of 1978*) at the time they are seeking assistance under this section; except that any family otherwise eligible for assistance under this section may not be denied preference for assistance not attached to a structure (or delayed or otherwise adversely affected in the provision of such assistance) solely because the family resides in public housing;

* * * * *

(f) As used in this section—

(1) the term “owner” means any private person or entity, including a cooperative, *an agency of the Federal Government*, or a public housing agency, having the legal right to lease or sublease dwelling units;

* * * * *

NATIONAL HOUSING ACT

* * * * *

TITLE II—MORTGAGE INSURANCE

* * * * *

HOMEOWNERSHIP FOR LOWER INCOME FAMILIES

SEC. 235. (a) * * *

* * * * *

(r)(1) * * *

(2) To be eligible for insurance under this subsection, a mortgage must be executed by a mortgagor meeting the requirements of paragraph (3) and shall—

(A) * * *

* * * * *

(C) be in an amount not exceeding the outstanding principal balance, including any unpaid interest, due on the mortgage being refinanced, *plus the costs incurred in connection with the refinancing as described in paragraph (4)(B) to the extent that the amount for those costs is not otherwise included in the interest rate as permitted by subparagraph (E) or paid by the Secretary as authorized by paragraph (4)(B);*

* * * * *

(4) The Secretary is authorized and, to the extent provided in appropriation Acts, may pay to the mortgagor (directly, through the mortgagee, or otherwise) *and the mortgagee (with respect to the amount described in subparagraph (A))—*

(A) an amount, as approved by the Secretary, as an incentive to the mortgagor *and the mortgagee* to refinance a mortgage insured under this section; and

* * * * *

[(5) Amounts of budget authority required for assistance payments contracts with respect to mortgages insured under this subsection shall be derived from amounts recaptured from assistance payments contracts relating to mortgages that are being refinanced. For purposes of subsection (c)(3)(A), the amount of recaptured budget authority that the Secretary commits for assistance payments contracts relating to mortgages insured under this subsection shall not be construed as "unused".]

(5) *The Secretary shall use amounts of budget authority recaptured from assistance payments contracts relating to mortgages that are being refinanced for assistance payments contracts with respect to mortgages insured under this subsection. The Secretary may also make such recaptured amounts available for incentives under paragraph (4)(A) and the costs incurred in connection with the refinancing under paragraph (4)(B). For purposes of subsection (c)(3)(A), the amount of recaptured budget authority that the Secretary commits for assistance payments contracts relating to mortgages insured under this subsection and for amounts paid under paragraph (4) shall not be construed as unused.*

* * * * *

TITLE V—MISCELLANEOUS

* * * * *

PARTIAL PAYMENT OF CLAIMS ON MULTIFAMILY HOUSING PROJECTS

SEC. 541. (a) AUTHORITY.—Notwithstanding any other provision of law, if the Secretary is requested to accept assignment of a mortgage insured by the Secretary that covers a multifamily housing project (as such term is defined in section 203(b) of the Housing and Community Development Amendments of 1978) and the Secretary determines that partial payment would be less costly to the Federal Government than other reasonable alternatives for maintaining the low-income character of the project, the Secretary may request the mortgagee, in lieu of assignment, to—

(1) accept partial payment of the claim under the mortgage insurance contract; and

(2) recast the mortgage, under such terms and conditions as the Secretary may determine.

(b) REPAYMENT.—As a condition to a partial claim payment under this section, the mortgagor shall agree to repay to the Secretary the amount of such payment and such obligation shall be secured by a second mortgage on the property on such terms and conditions as the Secretary may determine.

* * * * *

ADDITIONAL VIEWS OF HON. RICHARD BAKER

I am pleased with the major improvements to current law that this legislation promotes; in particular, the stringent requirements to provide section 8 rental subsidies prior to selling the properties have been loosened. Furthermore, the Secretary of HUD is provided with authority to be flexible and creative in disposing of properties in the open market.

There are provisions in the legislation, however, which hamper that flexibility. For example, a provision in the legislation requires the imposition of rent restrictions on market-rate developments before they can be sold. Such restrictions have never before existed in all likelihood because developers are less likely to invest in properties that are encumbered in some way. Furthermore, lenders are hesitant to provide financing to developers who buy restricted properties. To put it bluntly, there is little evidence to support the notion that these properties were ever intended to be restricted in any way.

The Chairman has assured me the provision will not affect the budget scoring. Let me point out, however, that the restriction could impede disposition if developers do not buy and lenders do not finance such properties. If disposition is impeded, however, the budget savings provided in this legislation will certainly be affected in an adverse way.

Furthermore, the problems created by these types of restrictions will remain. We know the consequence of those problems. Currently, the Federal government needs about \$15 billion to get out of this mess and to extract itself from accusations of being a slum landlord. We have buildings we cannot sell for lack of money nor can we renovate them. Consequently, people live in less than acceptable conditions. Unfortunately, Louisiana is the third largest owner of repossessed multifamily apartments.

I have seen the apartments and they are terrible. In my district, a very large complex is encircled by a barbed wire fence. It is completely empty. Yet, homeless individuals and families cannot get access to housing. This is a crazy system. It is time to be honest and exercise both management and fiscal responsibility. The Secretary must be authorized to use sound judgment to make business decisions with regard to marketing these properties.

Obviously, making business decisions must be balanced against the need to provide affordable housing for low-income families. Furthermore, I recognize the provision gives the Secretary authority to waive the rental restrictions after determining they unreasonably impede disposition. Nevertheless, I am troubled that the restriction has been imposed on properties which never before had such restrictions. Furthermore, given that everyone agrees that restrictions must be removed from the disposition process, I am concerned

that this legislation, while purporting to be a step forward, still contains substantial limitations.

Recognizing the need to increase disposition of multifamily projects, I introduced H.R. 2914—the FHA Multifamily Housing Emergency Disposition Act of 1993, on August 6, 1993. This legislation provides even more flexibility to the Secretary of HUD to dispose of these properties. It is my hope that, should the provision reported out of Committee be enacted, and should it fall short of the goal envisioned, that consideration will be given to the legislation I introduced which I believe goes much further in addressing this problem.

RICHARD H. BAKER.

ADDITIONAL VIEWS

The Grams-Knollenberg amendment to streamline HUD and save the taxpayers \$167 million passed with strong bipartisan support. This proposal was initially made by Vice President Gore's National Performance Review and is supported by the Administration. It calls for a modest 10 percent reduction in personnel over 5 years. It also requires HUD to reduce its field offices to a more manageable number. The strong bipartisan support for the proposal demonstrates the Committee's view that HUD can be streamlined without any detrimental impact on the daily operation of the Department.

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JOE KNOLLENBERG.

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